

State Energy Optimization Plan Administrator
Attachment A

Act No. 295

Public Acts of 2008

Approved by the Governor

October 6, 2008

Filed with the Secretary of State

October 6, 2008

EFFECTIVE DATE: October 6, 2008

STATE OF MICHIGAN

94TH LEGISLATURE

REGULAR SESSION OF 2008

Introduced by Senators Birkholz, Kahn, Hardiman, Jansen, Switalski and Barcia

ENROLLED SENATE BILL No. 213

AN ACT to require certain providers of electric service to establish renewable energy programs; to require certain providers of electric or natural gas service to establish energy optimization programs; to authorize the use of certain energy systems to meet the requirements of those programs; to provide for the approval of energy optimization service companies; to provide for certain charges on electric and natural gas bills; to promote energy conservation by state agencies and the public; to create a wind energy resource zone board and provide for its powers and duties; to authorize the creation and implementation of wind energy resource zones; to provide for expedited transmission line siting certificates; to provide for a net metering program and the responsibilities of certain providers of electric service and customers with respect to net metering; to provide for fees; to prescribe the powers and duties of certain state agencies and officials; to require the promulgation of rules and the issuance of orders; and to provide for civil sanctions, remedies, and penalties.

The People of the State of Michigan enact:

PART 1. GENERAL PROVISIONS

Sec. 1. (1) This act shall be known and may be cited as the "clean, renewable, and efficient energy act".

(2) The purpose of this act is to promote the development of clean energy, renewable energy, and energy optimization through the implementation of a clean, renewable, and energy efficient standard that will cost-effectively do all of the following:

- (a) Diversify the resources used to reliably meet the energy needs of consumers in this state.
- (b) Provide greater energy security through the use of indigenous energy resources available within the state.
- (c) Encourage private investment in renewable energy and energy efficiency.
- (d) Provide improved air quality and other benefits to energy consumers and citizens of this state.

Sec. 3. As used in this act:

- (a) "Advanced cleaner energy" means electricity generated using an advanced cleaner energy system.
- (b) "Advanced cleaner energy credit" means a credit certified under section 43 that represents generated advanced cleaner energy.
- (c) "Advanced cleaner energy system" means any of the following:
 - (i) A gasification facility.
 - (ii) An industrial cogeneration facility.
 - (iii) A coal-fired electric generating facility if 85% or more of the carbon dioxide emissions are captured and permanently geologically sequestered.
 - (iv) An electric generating facility or system that uses technologies not in commercial operation on the effective date of this act.
- (d) "Affiliated transmission company" means that term as defined in the electric transmission line certification act, 1995 PA 30, MCL 460.562.
- (e) "Applicable regional transmission organization" means a nonprofit, member-based organization governed by an independent board of directors that serves as the federal energy regulatory commission-approved regional transmission organization with oversight responsibility for the region that includes the provider's service territory.
- (f) "Biomass" means any organic matter that is not derived from fossil fuels, that can be converted to usable fuel for the production of energy, and that replenishes over a human, not a geological, time frame, including, but not limited to, all of the following:
 - (i) Agricultural crops and crop wastes.
 - (ii) Short-rotation energy crops.
 - (iii) Herbaceous plants.
 - (iv) Trees and wood, but only if derived from sustainably managed forests or procurement systems, as defined in section 261c of the management and budget act, 1984 PA 431, MCL 18.1261c.
 - (v) Paper and pulp products.
 - (vi) Precommercial wood thinning waste, brush, or yard waste.
 - (vii) Wood wastes and residues from the processing of wood products or paper.
 - (viii) Animal wastes.
 - (ix) Wastewater sludge or sewage.
 - (x) Aquatic plants.
 - (xi) Food production and processing waste.
 - (xii) Organic by-products from the production of biofuels.
- (g) "Board" means the wind energy resource zone board created under section 143.

(h) "Carbon dioxide emissions benefits" means that the carbon dioxide emissions per megawatt hour of electricity generated by the advanced cleaner energy system are at least 85% less or, for an integrated gasification combined cycle facility, 70% less than the average carbon dioxide emissions per megawatt hour of electricity generated from all coal-fired electric generating facilities operating in this state on January 1, 2008.

(i) "Commission" means the Michigan public service commission.

(j) "Customer meter" means an electric meter of a provider's retail customer. Customer meter does not include a municipal water pumping meter or additional meters at a single site that were installed specifically to support interruptible air conditioning, interruptible water heating, net metering, or time-of-day tariffs.

Sec. 5. As used in this act:

(a) "Electric provider", subject to sections 21(1), 23(1), and 25(1), means any of the following:

(i) Any person or entity that is regulated by the commission for the purpose of selling electricity to retail customers in this state.

(ii) A municipally-owned electric utility in this state.

(iii) A cooperative electric utility in this state.

(iv) Except as used in subpart B of part 2, an alternative electric supplier licensed under section 10a of 1939 PA 3, MCL 460.10a.

(b) "Eligible electric generator" means that a methane digester or renewable energy system with a generation capacity limited to the customer's electric need and that does not exceed the following:

(i) For a renewable energy system, 150 kilowatts of aggregate generation at a single site.

(ii) For a methane digester, 550 kilowatts of aggregate generation at a single site.

(c) "Energy conservation" means the reduction of customer energy use through the installation of measures or changes in energy usage behavior. Energy conservation does not include the use of advanced cleaner energy systems.

(d) "Energy efficiency" means a decrease in customer consumption of electricity or natural gas achieved through measures or programs that target customer behavior, equipment, devices, or materials without reducing the quality of energy services.

(e) "Energy optimization", subject to subdivision (f), means all of the following:

(i) Energy efficiency.

(ii) Load management, to the extent that the load management reduces overall energy usage.

(iii) Energy conservation, but only to the extent that the decreases in the consumption of electricity produced by energy conservation are objectively measurable and attributable to an energy optimization plan.

(f) Energy optimization does not include electric provider infrastructure projects that are approved for cost recovery by the commission other than as provided in this act.

(g) "Energy optimization credit" means a credit certified pursuant to section 87 that represents achieved energy optimization.

(h) "Energy optimization plan" or "EO plan" means a plan under section 71.

(i) "Energy optimization standard" means the minimum energy savings required to be achieved under section 77.

(j) "Energy star" means the voluntary partnership among the United States department of energy, the United States environmental protection agency, product manufacturers, local utilities, and retailers to help promote energy efficient products by labeling with the energy star logo, educate consumers about the benefits of energy efficiency, and help promote energy efficiency in buildings by benchmarking and rating energy performance.

(k) "Federal approval" means approval by the applicable regional transmission organization or other federal energy regulatory commission approved transmission planning process of a transmission project that includes the transmission line. Federal approval may be evidenced in any of the following manners:

(i) The proposed transmission line is part of a transmission project included in the applicable regional transmission organization's board-approved transmission expansion plan.

(ii) The applicable regional transmission organization has informed the electric utility, affiliated transmission company, or independent transmission company that a transmission project submitted for an out-of-cycle project review has been approved by the applicable regional transmission organization, and the approved transmission project includes the proposed transmission line.

(iii) If, after the effective date of this act, the applicable regional transmission organization utilizes another approval process for transmission projects proposed by an electric utility, affiliated transmission company, or independent transmission company, the proposed transmission line is included in a transmission project approved by the applicable regional transmission organization through the approval process developed after the effective date of this act.

(iv) Any other federal energy regulatory commission approved transmission planning process for a transmission project.

Sec. 7. As used in this act:

(a) "Gasification facility" means a facility located in this state that uses a thermochemical process that does not involve direct combustion to produce synthesis gas, composed of carbon monoxide and hydrogen, from carbon-based feedstocks (such as coal, petroleum coke, wood, biomass, hazardous waste, medical waste, industrial waste, and solid waste, including, but not limited to, municipal solid waste, electronic waste, and waste described in section 11514 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11514) and that uses the synthesis gas or a mixture of the synthesis gas and methane to generate electricity for commercial use. Gasification facility includes the transmission lines, gas transportation lines and facilities, and associated property and equipment specifically attributable to such a facility. Gasification facility includes, but is not limited to, an integrated gasification combined cycle facility and a plasma arc gasification facility.

(b) "Incremental costs of compliance" means the net revenue required by an electric provider to comply with the renewable energy standard, calculated as provided under section 47.

(c) "Independent transmission company" means that term as defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(d) "Industrial cogeneration facility" means a facility that generates electricity using industrial thermal energy or industrial waste energy.

(e) "Industrial thermal energy" means thermal energy that is a by-product of an industrial or manufacturing process and that would otherwise be wasted. For the purposes of this subdivision, industrial or manufacturing process does not include the generation of electricity.

(f) "Industrial waste energy" means exhaust gas or flue gas that is a by-product of an industrial or manufacturing process and that would otherwise be wasted. For the purposes of this subdivision, industrial or manufacturing process does not include the generation of electricity.

(g) "Integrated gasification combined cycle facility" means a gasification facility that uses a thermochemical process, including high temperatures and controlled amounts of air and oxygen, to break substances down into their molecular structures and that uses exhaust heat to generate electricity.

(h) "LEED" means the leadership in energy and environmental design green building rating system developed by the United States green building council.

(i) "Load management" means measures or programs that target equipment or devices to result in decreased peak electricity demand such as by shifting demand from a peak to an off-peak period.

(j) "Modified net metering" means a utility billing method that applies the power supply component of the full retail rate to the net of the bidirectional flow of kilowatt hours across the customer interconnection with the utility distribution system, during a billing period or time-of-use pricing period. A negative net metered quantity during the billing period or during each time-of-use pricing period within the billing period reflects net excess generation for which the customer is entitled to receive credit under section 177(4). Standby charges for modified net metering customers on an energy rate schedule shall be equal to the retail distribution charge applied to the imputed customer usage during the billing period. The imputed customer usage is calculated as the sum of the metered on-site generation and the net of the bidirectional flow of power across the customer interconnection during the billing period. The commission shall establish standby charges for modified net metering customers on demand-based rate schedules that provide an equivalent contribution to utility system costs.

Sec. 9. As used in this act:

(a) "Natural gas provider" means an investor-owned business engaged in the sale and distribution of natural gas within this state whose rates are regulated by the commission. However, as used in subpart B of part 2, natural gas provider does not include an alternative gas supplier licensed under section 9b of 1939 PA 3, MCL 460.9b.

(b) "Plasma arc gasification facility" means a gasification facility that uses a plasma torch to break substances down into their molecular structures.

(c) "Provider" means an electric provider or a natural gas provider.

(d) "PURPA" means the public utility regulatory policies act of 1978, Public Law 95-617.

(e) "Qualifying small power production facility" means that term as defined in 16 USC 824a-3.

Sec. 11. As used in this act:

(a) "Renewable energy" means electricity generated using a renewable energy system.

(b) "Renewable energy capacity portfolio" means the number of megawatts calculated under section 27(2) for a particular year.

(c) "Renewable energy contract" means a contract to acquire renewable energy and the associated renewable energy credits from 1 or more renewable energy systems.

(d) "Renewable energy credit" means a credit granted pursuant to section 41 that represents generated renewable energy.

(e) "Renewable energy credit portfolio" means the sum of the renewable energy credits achieved by a provider for a particular year.

(f) "Renewable energy credit standard" means a minimum renewable energy portfolio required under section 27.

(g) "Renewable energy generator" means a person that, together with its affiliates, has constructed or has owned and operated 1 or more renewable energy systems with combined gross generating capacity of at least 10 megawatts.

(h) "Renewable energy plan" or "plan", means a plan approved under section 21 or 23 or found to comply with this act under section 25, with any amendments adopted under this act.

(i) "Renewable energy resource" means a resource that naturally replenishes over a human, not a geological, time frame and that is ultimately derived from solar power, water power, or wind power. Renewable energy resource does not include petroleum, nuclear, natural gas, or coal. A renewable energy resource comes from the sun or from thermal inertia of the earth and minimizes the output of toxic material in the conversion of the energy and includes, but is not limited to, all of the following:

(i) Biomass.

- (ii) Solar and solar thermal energy.
- (iii) Wind energy.
- (iv) Kinetic energy of moving water, including all of the following:
 - (A) Waves, tides, or currents.
 - (B) Water released through a dam.
- (v) Geothermal energy.
- (vi) Municipal solid waste.
- (vii) Landfill gas produced by municipal solid waste.
- (j) "Renewable energy standard" means the minimum renewable energy capacity portfolio, if applicable, and the renewable energy credit portfolio required to be achieved under section 27.
- (k) "Renewable energy system" means a facility, electricity generation system, or set of electricity generation systems that use 1 or more renewable energy resources to generate electricity. Renewable energy system does not include any of the following:
 - (i) A hydroelectric pumped storage facility.
 - (ii) A hydroelectric facility that uses a dam constructed after the effective date of this act unless the dam is a repair or replacement of a dam in existence on the effective date of this act or an upgrade of a dam in existence on the effective date of this act that increases its energy efficiency.
 - (iii) An incinerator unless the incinerator is a municipal solid waste incinerator as defined in section 11504 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11504, that was brought into service before the effective date of this act, including any of the following:
 - (A) Any upgrade of such an incinerator that increases energy efficiency.
 - (B) Any expansion of such an incinerator before the effective date of this act.
 - (C) Any expansion of such an incinerator on or after the effective date of this act to an approximate design rated capacity of not more than 950 tons per day pursuant to the terms of a final request for proposals issued on or before October 1, 1986.
- (l) "Revenue recovery mechanism" means the mechanism for recovery of incremental costs of compliance established under section 21.

Sec. 13. As used in this act:

- (a) "Site" means a contiguous site, regardless of the number of meters at that site. A site that would be contiguous but for the presence of a street, road, or highway shall be considered to be contiguous for the purposes of this subdivision.
- (b) "Transmission line" means all structures, equipment, and real property necessary to transfer electricity at system bulk supply voltage of 100 kilovolts or more.
- (c) "True net metering" means a utility billing method that applies the full retail rate to the net of the bidirectional flow of kilowatt hours across the customer interconnection with the utility distribution system, during a billing period or time-of-use pricing period. A negative net metered quantity during the billing period or during each time-of-use pricing period within the billing period reflects net excess generation for which the customer is entitled to receive credit under section 177(4).

(d) "Utility system resource cost test" means a standard that is met for an investment in energy optimization if, on a life cycle basis, the total avoided supply-side costs to the provider, including representative values for electricity or natural gas supply, transmission, distribution, and other associated costs, are greater than the total costs to the provider of administering and delivering the energy optimization program, including net costs for any provider incentives paid by customers and capitalized costs recovered under section 89.

(e) "Wind energy conversion system" means a renewable energy system that uses 1 or more wind turbines to generate electricity and has a nameplate capacity of 100 kilowatts or more.

(f) "Wind energy resource zone" or "wind zone" means an area designated by the commission under section 147.

PART 2. ENERGY STANDARDS

SUBPART A. RENEWABLE ENERGY

Sec. 21. (1) This section applies only to electric providers whose rates are regulated by the commission.

(2) Each electric provider shall file a proposed renewable energy plan with the commission within 90 days after the commission issues a temporary order under section 171. The proposed plan shall meet all of the following requirements:

(a) Describe how the electric provider will meet the renewable energy standards.

(b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the plan is approved by the commission, this option shall not be changed.

(c) Include the expected incremental cost of compliance with the renewable energy standards for a 20-year period beginning when the plan is approved by the commission.

(d) For an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008, describe the bidding process to be used by the electric provider under section 33. The description shall include measures to be employed in the preparation of requests for proposals and the handling and evaluation of proposals received to ensure that any bidder that is an affiliate of the electric utility is not afforded a competitive advantage over any other bidder and that each bidder, including any bidder that is an affiliate of the electric provider, is treated in a fair and nondiscriminatory manner.

(3) The proposed plan shall establish a nonvolumetric mechanism for the recovery of the incremental costs of compliance within the electric provider's customer rates. The revenue recovery mechanism shall not result in rate impacts that exceed the monthly maximum retail rate impacts specified under section 45. The revenue recovery mechanism is subject to adjustment under sections 47(4) and 49. A customer participating in a commission-approved voluntary renewable energy program under an agreement in effect on the effective date of this act shall not incur charges under the revenue recovery mechanism unless the charges under the revenue recovery mechanism exceed the charges the customer is incurring for the voluntary renewable energy program. In that case, the customer shall only incur the difference between the charge assessed under the revenue recovery mechanism and the charges the customer is incurring for the voluntary renewable energy program. The limitation on charges applies only during the term of the agreement, not including automatic agreement renewals, or until 1 year after the effective date of this act, whichever is later. Before entering an agreement with a customer to participate in a commission-approved voluntary renewable energy program and before the last automatic monthly renewal of such an agreement that will occur less than 1 year after the effective date of this act, an electric provider shall notify the customer that the customer will be responsible for the full applicable charges under the revenue recovery mechanism and under the voluntary renewable energy program as provided under this subsection.

(4) If proposed by the electric provider in its proposed plan, the revenue recovery mechanism shall result in an accumulation of reserve funds in advance of expenditure and the creation of a regulatory liability that accrues interest at the average short-term borrowing rate available to the electric provider during the appropriate period. If proposed by the electric provider in its proposed plan, the commission shall establish a minimum balance of accumulated reserve funds for the purposes of section 47(4).

(5) The commission shall conduct a contested case hearing on the proposed plan filed under subsection (2), pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If a renewable energy generator files a petition to

intervene in the contested case in the manner prescribed by the commission's rules for interventions generally, the commission shall grant the petition. Subject to subsections (6) and (10), after the hearing and within 90 days after the proposed plan is filed with the commission, the commission shall approve, with any changes consented to by the electric provider, or reject the plan.

(6) The commission shall not approve an electric provider's plan unless the commission determines both of the following:

(a) That the plan is reasonable and prudent. In making this determination, the commission shall take into consideration projected costs and whether or not projected costs included in prior plans were exceeded.

(b) That the life-cycle cost of renewable energy acquired or generated under the plan less the projected life-cycle net savings associated with the provider's energy optimization plan does not exceed the expected life-cycle cost of electricity generated by a new conventional coal-fired facility. In determining the expected life-cycle cost of electricity generated by a new conventional coal-fired facility, the commission shall consider data from this state and the states of Ohio, Indiana, Illinois, Wisconsin, and Minnesota, including, if applicable, the life-cycle costs of the renewable energy system and new conventional coal-fired facilities. When determining the life-cycle costs of the renewable energy system and new conventional coal-fired facilities, the commission shall use a methodology that includes, but is not limited to, consideration of the value of energy, capacity, and ancillary services. The commission shall also consider other costs such as transmission, economic benefits, and environmental costs, including, but not limited to, greenhouse gas constraints or taxes. In performing its assessment, the commission may utilize other available data, including national or regional reports and data published by federal or state governmental agencies, industry associations, and consumer groups.

(7) An electric provider shall not begin recovery of the incremental costs of compliance within its rates until the commission has approved its proposed plan.

(8) Every 2 years after initial approval of a plan under subsection (5), the commission shall review the plan. The commission shall conduct a contested case hearing on the plan pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The annual renewable cost reconciliation under section 49 for that year may be joined with the overall plan review in the same contested case hearing. Subject to subsections (6) and (10), after the hearing, the commission shall approve, with any changes consented to by the electric provider, or reject the plan and any proposed amendments to the plan.

(9) If an electric provider proposes to amend its plan at a time other than during the biennial review process under subsection (8), the electric provider shall file the proposed amendment with the commission. If the proposed amendment would modify the revenue recovery mechanism, the commission shall conduct a contested case hearing on the amendment pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The annual renewable cost reconciliation under section 49 may be joined with the plan amendment in the same contested case proceeding. Subject to subsections (6) and (10), after the hearing and within 90 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject the plan and the proposed amendment or amendments to the plan.

(10) If the commission rejects a proposed plan or amendment under this section, the commission shall explain in writing the reasons for its determination.

Sec. 23. (1) This section applies only to alternative electric suppliers and cooperative electric utilities that have elected to become member-regulated under the electric cooperative member-regulation act, 2008 PA 167, MCL 460.31 to 460.39.

(2) Each alternative electric supplier or cooperative electric utility shall file a proposed renewable energy plan with the commission within 90 days or 120 days, respectively, after the commission issues a temporary order under section 171. The proposed plan shall meet all of the following requirements:

(a) Describe how the electric provider will meet the renewable energy standards.

(b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the plan is approved by the commission, this option shall not be changed.

(3) The commission shall provide an opportunity for public comment on the proposed plan filed under subsection (2). After the opportunity for public comment and within 90 days after the proposed plan is filed with the commission, the commission shall approve, with any changes consented to by the electric provider, or reject the plan.

(4) Every 2 years after initial approval of a plan under subsection (3), the commission shall review the plan. The commission shall provide an opportunity for public comment on the plan. After the opportunity for public comment, the commission shall approve, with any changes consented to by the electric provider, or reject any proposed amendments to the plan.

(5) If an electric provider proposes to amend its plan at a time other than during the biennial review process under subsection (4), the electric provider shall file the proposed amendment with the commission. The commission shall provide an opportunity for public comment on the amendment. After the opportunity for public comment and within 90 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject the amendment.

(6) If the commission rejects a proposed plan or amendment under this section, the commission shall explain in writing the reasons for its determination.

Sec. 25. (1) This section applies only to municipally-owned electric utilities.

(2) Each electric provider shall file a proposed renewable energy plan with the commission within 120 days after the commission issues a temporary order under section 171. Two or more electric providers that each serve fewer than 15,000 customers may file jointly. The proposed plan shall meet all of the following requirements:

(a) Describe how the provider will meet the renewable energy standards.

(b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the commission determines that the proposed plan complies with this act, this option shall not be changed.

(c) Include the expected incremental cost of compliance with the renewable energy standards.

(d) Describe the manner in which the provider will allocate costs.

(3) Subject to subsection (6), the commission shall provide an opportunity for public comment on the proposed plan filed under subsection (2). After the applicable opportunity for public comment and within 90 days after the proposed plan is filed with the commission, the commission shall determine whether the proposed plan complies with this act.

(4) Every 2 years after the commission initially determines under subsection (3) that a renewable energy plan complies with this act, the commission shall review the plan. Subject to subsection (6), the commission shall provide an opportunity for public comment on the plan. After the applicable opportunity for public comment, the commission shall determine whether any amendment to the plan proposed by the provider complies with this act. The proposed amendment is adopted if the commission determines that it complies with this act.

(5) If a provider proposes to amend its renewable energy plan at a time other than during the biennial review process under subsection (4), the provider shall file the proposed amendment with the commission. Subject to subsection (6), the commission shall provide an opportunity for public comment on the amendment. After the applicable opportunity for public comment and within 90 days after the amendment is filed, the commission shall determine whether the proposed amendment to the plan complies with this act. The proposed amendment is adopted if the commission determines that it complies with this act.

(6) The commission need not provide an opportunity for public comment under subsection (3), (4), or (5) if the governing body of the provider has already provided an opportunity for public comment and filed the comments with the commission.

(7) If the commission determines that a proposed plan or amendment under this section does not comply with this act, the commission shall explain in writing the reasons for its determination.

Sec. 27. (1) Subject to sections 31 and 45, and in addition to the requirements of subsection (3), an electric provider that is an electric utility with 1,000,000 or more retail customers in this state as of January 1, 2008 shall achieve a renewable energy capacity portfolio of not less than the following:

(a) For an electric provider with more than 1,000,000 but less than 2,000,000 retail electric customers in this state on January 1, 2008, a renewable energy capacity portfolio of 200 megawatts by December 31, 2013 and 500 megawatts by December 31, 2015.

- (b) For an electric provider with more than 2,000,000 retail electric customers in this state on January 1, 2008, a renewable energy capacity portfolio of 300 megawatts by December 31, 2013 and 600 megawatts by December 31, 2015.
- (2) An electric provider's renewable energy capacity portfolio shall be calculated by adding the following:
- (a) The nameplate capacity in megawatts of renewable energy systems owned by the electric provider that were not in commercial operation before the effective date of this act.
- (b) The capacity in megawatts of renewable energy that the electric provider is entitled to purchase under contracts that were not in effect before the effective date of this act.
- (3) Subject to sections 31 and 45, an electric provider shall achieve a renewable energy credit portfolio as follows:
- (a) In 2012, 2013, 2014, and 2015, a renewable energy credit portfolio based on the sum of the following:
- (i) The number of renewable energy credits from electricity generated in the 1-year period preceding the effective date of this act that would have been transferred to the electric provider pursuant to section 35(1), if this act had been in effect during that 1-year period.
- (ii) The number of renewable energy credits equal to the number of megawatt hours of electricity produced or obtained by the electric provider in the 1-year period preceding the effective date of this act from renewable energy systems for which recovery in electric rates was approved on the effective date of this act.
- (iii) Renewable energy credits in an amount calculated as follows:
- (A) Taking into account the number of renewable energy credits under subparagraphs (i) and (ii), determine the number of additional renewable energy credits that the electric provider would need to reach a 10% renewable energy portfolio in that year.
- (B) Multiply the number under sub-subparagraph (A) by 20% for 2012, 33% for 2013, 50% for 2014, and 100% for 2015.
- (b) In 2016 and each year thereafter, maintain a renewable energy credit portfolio that consists of at least the same number of renewable energy credits as were required in 2015 under subdivision (a).
- (4) An electric provider's renewable energy credit portfolio shall be calculated as follows:
- (a) Determine the number of renewable energy credits used to comply with this subpart during the applicable year.
- (b) Divide by 1 of the following at the option of the electric provider as specified in its renewable energy plan:
- (i) The number of weather-normalized megawatt hours of electricity sold by the electric provider during the previous year to retail customers in this state.
- (ii) The average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state.
- (c) Multiply the quotient under subdivision (b) by 100.
- (5) Subject to subsection (6), each electric provider shall meet the renewable energy credit standards with renewable energy credits obtained by 1 or more of the following means:
- (a) Generating electricity from renewable energy systems for sale to retail customers.
- (b) Purchasing or otherwise acquiring renewable energy credits with or without the associated renewable energy.
- (6) An electric provider may substitute energy optimization credits, advanced cleaner energy credits with or without the associated advanced cleaner energy, or a combination thereof for renewable energy credits otherwise required to meet the renewable energy

credit standards if the substitution is approved by the commission. However, commission approval is not required to substitute advanced cleaner energy from industrial cogeneration for renewable energy credits. The commission shall not approve a substitution unless the commission determines that the substitution is cost-effective compared to other sources of renewable energy credits and, if the substitution involves advanced cleaner energy credits, that the advanced cleaner energy system provides carbon dioxide emissions benefits. In determining whether the substitution of advanced cleaner energy credits is cost-effective, the commission shall include as part of the costs of the system the environmental costs attributed to the advanced cleaner energy system, including the costs of environmental control equipment or greenhouse gas constraints or taxes. The commission's determinations shall be made after a contested case hearing that includes consultation with the department of environmental quality on the issue of carbon dioxide emissions benefits, if relevant, and environmental costs.

(7) Under subsection (6), energy optimization credits, advanced cleaner energy credits, or a combination thereof shall not be used by a provider to meet more than 10% of the renewable energy credit standards. Advanced cleaner energy from advanced cleaner energy systems in existence on January 1, 2008 shall not be used by a provider to meet more than 70% of this 10% limit. This 10% limit does not apply to advanced cleaner energy credits from plasma arc gasification.

(8) Substitutions under subsection (6) shall be made at the following rates per renewable energy credit:

(a) One energy optimization credit.

(b) One advanced cleaner energy credit from plasma arc gasification or industrial cogeneration.

(c) Ten advanced cleaner energy credits other than from plasma arc gasification or industrial cogeneration.

Sec. 29. (1) Subject to subsection (2), a renewable energy system that is the source of renewable energy credits used to satisfy the renewable energy standards shall be either located outside of this state in the retail electric customer service territory of any provider that is not an alternative electric supplier or located anywhere in this state. For the purposes of this subsection, a retail electric customer service territory shall be considered to be the territory recognized by the commission on January 1, 2008 and any expansion of retail electric customer service territory recognized by the commission after January 1, 2008 under 1939 PA 3, MCL 460.1 to 460.10cc. The commission may also expand a service territory for the purposes of this subsection if a lack of transmission lines limits the ability to obtain sufficient renewable energy from renewable energy systems that meet the location requirement of this subsection.

(2) The renewable energy system location requirements in subsection (1) do not apply if 1 or more of the following requirements are met:

(a) The renewable energy system is a wind energy conversion system and the electricity generated by the wind energy system, or the renewable energy credits associated with that electricity, is being purchased under a contract in effect on January 1, 2008. If the electricity and associated renewable energy credits purchased under such a contract are used by an electric provider to meet renewable energy requirements established after January 1, 2008 by the legislature of the state in which the wind energy conversion system is located, the electric provider may, for the purpose of meeting the renewable energy credit standard under this act, obtain, by any means authorized under section 27, up to the same number of replacement renewable energy credits from any other wind energy conversion systems located in that state. This subdivision shall not be utilized by an alternative electric supplier unless the alternative electric supplier was licensed in this state on January 1, 2008. Renewable energy credits from a renewable energy system under a contract with an alternative electric supplier under this subdivision shall not be used by another electric provider to meet its requirements under this part.

(b) The renewable energy system is a wind energy conversion system that was under construction or operational and owned by an electric provider on January 1, 2008. This subdivision shall not be utilized by an alternative electric supplier.

(c) The renewable energy system is a wind energy conversion system that includes multiple wind turbines, at least 1 of the wind turbines meets the location requirements of this section, and the remaining wind turbines are within 15 miles of a wind turbine that is part of that wind energy conversion system and that meets the location requirements of this section.

(d) Before January 1, 2008, an electric provider serving not more than 75,000 retail electric customers in this state filed an application for a certificate of authority for the renewable energy system with a state regulatory commission in another state that is also served by the electric provider. However, renewable energy credits shall not be granted under this subdivision for electricity generated using more than 10.0 megawatts of nameplate capacity of the renewable energy system.

(e) Electricity generated from the renewable energy system is sold by a not-for-profit entity located in Indiana or Wisconsin to a municipally-owned electric utility in this state or cooperative electric utility in this state under a contract in effect on January 1, 2008, and the electricity is not being used to meet another state's standard for renewable energy.

(f) Electricity generated from the renewable energy system is sold by a not-for-profit entity located in Ohio to a municipally-owned electric utility in this state under a contract approved by resolution of the governing body of the municipally-owned electric utility by January 1, 2008, and the electricity is not being used to meet another state's standard for renewable energy. However, renewable energy credits shall not be granted for electricity generated using more than 13.4 megawatts of nameplate capacity of the renewable energy system.

(g) All of the following requirements are met:

(i) The renewable energy system is a wind energy system, is interconnected to the electric provider's transmission system, and is located in a state in which the electric provider has service territory.

(ii) The electric provider competitively bid any contract for engineering, procurement, or construction of the renewable energy system, if the electric provider owns the renewable energy system, or for purchase of the renewable energy and associated renewable energy credits from the renewable energy system, if the provider does not own the renewable energy system, in a process open to renewable energy systems sited in this state.

(iii) The renewable energy credits from the renewable energy system are only used by that electric provider to meet the renewable energy standard.

(iv) The electric provider is not an alternative electric supplier.

(3) Advanced cleaner energy systems that are the source of the advanced cleaner energy credits used under section 27 shall be either located outside this state in the service territory of any electric provider that is not an alternative electric supplier or located anywhere in this state.

Sec. 31. (1) Upon petition by an electric provider, the commission may for good cause grant 2 extensions of the 2015 renewable energy standard deadline under section 27. Each extension shall be for up to 1 year.

(2) If 2 extensions of the 2015 renewable energy standard deadline have been granted to an electric provider under subsection (1), upon subsequent petition by the electric provider at least 3 months before the expiration of the second extended deadline, the commission shall, after consideration of prior extension requests under this section and for good cause, establish a revised renewable energy standard attainable by the electric provider. If the electric provider achieves the revised renewable energy standard, the provider is considered to be in compliance with this subpart.

(3) An electric provider that makes a good faith effort to spend the full amount of incremental costs of compliance as outlined in its approved renewable energy plan and that complies with its approved plan, subject to any approved extensions or revisions, shall be considered to be in compliance with this subpart.

(4) As used in this section, "good cause" includes, but is not limited to, the electric provider's inability, as determined by the commission, to meet a renewable energy standard because of a renewable energy system feasibility limitation including, but not limited to, any of the following:

(a) Renewable energy system site requirements, zoning, siting, land use issues, permits, including environmental permits, any certificate of need process under section 6s of 1939 PA 3, MCL 460.6s, or any other necessary governmental approvals that effectively limit availability of renewable energy systems, if the electric provider exercised reasonable diligence in attempting to secure the necessary governmental approvals. For purposes of this subdivision, "reasonable diligence" includes, but is not limited to, submitting timely applications for the necessary governmental approvals and making good faith efforts to ensure that the applications are administratively complete and technically sufficient.

(b) Equipment cost or availability issues including electrical equipment or renewable energy system component shortages or high costs that effectively limit availability of renewable energy systems.

(c) Cost, availability, or time requirements for electric transmission and interconnection.

(d) Projected or actual unfavorable electric system reliability or operational impacts.

(e) Labor shortages that effectively limit availability of renewable energy systems.

(f) An order of a court of competent jurisdiction that effectively limits the availability of renewable energy systems.

Sec. 33. (1) Subject to subsections (2) and (3), an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008 shall obtain the renewable energy credits that are necessary to meet the renewable energy credit standard in 2015 and thereafter as follows:

(a) At the electric provider's option, up to but no more than 50% of the renewable energy credits shall be from any of the following:

(i) Renewable energy systems that were developed by and are owned by the electric provider. An electric provider shall competitively bid any contract for engineering, procurement, or construction of any new renewable energy systems described in this subdivision. However, an electric provider may consider unsolicited proposals presented to it by a renewable energy system developer outside of a competitive bid process. If the provider determines that such an unsolicited proposal provides opportunities that may not otherwise be available or commercially practical, the provider may enter into a contract with the developer.

(ii) Renewable energy systems that were developed by 1 or more third parties pursuant to a contract with the electric provider under which the ownership of the renewable energy system may be transferred to the electric provider, but only after the renewable energy system begins commercial operation. Any such contract shall be executed after a competitive bidding process conducted pursuant to guidelines issued by the commission. However, an electric provider may consider unsolicited proposals presented to it by a renewable energy system developer outside of a competitive bid process. If the provider determines that such an unsolicited proposal provides opportunities that may not otherwise be available or commercially practical, the provider may enter into a contract with the developer. An affiliate of the electric provider may submit a proposal in response to a request for proposals, subject to the code of conduct under section 10a(4) of 1939 PA 3, MCL 460.10a, and the sanctions for violation of the code under section 10c of 1939 PA 3, MCL 460.10c.

(b) At least 50% of the renewable energy credits shall be from renewable energy contracts that do not require transfer of ownership of the applicable renewable energy system to the electric provider or from contracts for the purchase of renewable energy credits without the associated renewable energy. A renewable energy contract or contract for the purchase of renewable energy credits under this subdivision shall be executed after a competitive bidding process conducted pursuant to guidelines issued by the commission. However, an electric provider may consider unsolicited proposals presented to it outside of a competitive bid process by a renewable energy system developer that is not affiliated with the electric provider. If the provider determines that such an unsolicited proposal provides opportunities that may not otherwise be available or commercially practical, the provider may enter into a contract with the developer. The contract is subject to review and approval by the commission under section 21. An electric provider or its affiliate may not submit a proposal in response to its own request for proposals under this subdivision. If an electric provider selects a bid other than the lowest price conforming bid from a qualified bidder, the electric provider shall promptly notify the commission. The commission shall determine in the manner provided under section 37 whether the electric provider had good cause for selecting that bid. If the commission determines that the electric provider did not have good cause, the commission shall disapprove the contract.

(2) Subsection (1) does not apply to either of the following:

(a) Renewable energy credits that are transferred to the electric provider pursuant to section 35(1).

(b) Renewable energy credits that are produced or obtained by the electric provider from renewable energy systems for which recovery in electric rates was approved as of the effective date of this act, including renewable energy credits resulting from biomass co-firing of electric generation facilities in existence on the effective date of this act, except to the extent the number of megawatt hours of electricity annually generated by biomass co-firing exceeds the number of megawatt hours generated during the 1-year period immediately preceding the effective date of this act.

(3) An electric provider shall submit a contract entered into pursuant to subsection (1) to the commission for review and approval. If the commission approves the contract, it shall be considered to be consistent with the electric provider's renewable energy plan. The commission shall not approve a contract based on an unsolicited proposal unless the commission determines that the unsolicited proposal provides opportunities that may not otherwise be available or commercially practical.

Sec. 35. (1) If an electric provider obtains renewable energy for resale to retail or wholesale customers under an agreement under PURPA, ownership of the associated renewable energy credits shall be as provided by the PURPA agreement. If the PURPA agreement does not provide for ownership of the renewable energy credits, then:

(a) Except to the extent that a separate agreement governs under subdivision (b), for the duration of the PURPA agreement, for every 5 renewable energy credits associated with the renewable energy, ownership of 4 of the renewable energy credits is transferred to the electric provider with the renewable energy, and ownership of 1 renewable energy credit remains with the qualifying small power production facility.

(b) If a separate agreement in effect on January 1, 2008 provides for the ownership of the renewable attributes of the generated electricity, the separate agreement shall govern until January 1, 2013 or until expiration of the separate agreement, whichever occurs first.

(2) If an investor-owned electric utility with less than 20,000 customers, a municipally-owned electric utility, or cooperative electric utility obtains all or substantially all of its electricity for resale under a power purchase agreement or agreements in existence on the effective date of this act, ownership of any associated renewable energy credits shall be considered to be transferred to the electric provider purchasing the electricity. The number of renewable energy credits associated with the purchased electricity shall be determined by multiplying the total number of renewable energy credits associated with the total power supply of the seller during the term of the agreement by a fraction, the numerator of which is the amount of energy purchased under the agreement or agreements and the denominator of which is the total power supply of the seller during the term of the agreement. This subsection does not apply unless 1 or more of the following occur:

(a) The seller and the electric provider purchasing the electricity agree that this subsection applies.

(b) For a seller that is an investor-owned electric utility whose rates are regulated by the commission, the commission reduces the number of renewable energy credits required under the renewable energy credit standard for the seller by the number of renewable energy credits to be transferred to the electric provider purchasing the electricity under this subsection.

Sec. 37. If, after the effective date of this act, an electric provider whose rates are regulated by the commission enters a renewable energy contract or a contract to purchase renewable energy credits without the associated renewable energy, the commission shall determine whether the contract provides reasonable and prudent terms and conditions and complies with the retail rate impact limits under section 45. In making this determination, the commission shall consider the contract price and term. If the contract is a renewable energy contract, the commission shall also consider at least all of the following:

(a) The cost to the electric provider and its customers of the impacts of accounting treatment of debt and associated equity requirements imputed by credit rating agencies and lenders attributable to the renewable energy contract. The commission shall use standard rating agency, lender, and accounting practices for electric utilities in determining these costs, unless the impacts for the electric provider are known.

(b) Subject to section 45, the life-cycle cost of the renewable energy contract to the electric provider and customers including costs, after expiration of the renewable energy contract, of maintaining the same renewable energy output in megawatt hours, whether by purchases from the marketplace, by extension or renewal of the renewable energy contract, or by the electric provider purchasing the renewable energy system and continuing its operation.

(c) Electric provider and customer price and cost risks if the renewable energy systems supporting the renewable energy contract move from contracted pricing to market-based pricing after expiration of the renewable energy contract.

Sec. 39. (1) Except as otherwise provided in section 35(1), 1 renewable energy credit shall be granted to the owner of a renewable energy system for each megawatt hour of electricity generated from the renewable energy system, subject to all of the following:

(a) If a renewable energy system uses both a renewable energy resource and a nonrenewable energy resource to generate electricity, the number of renewable energy credits granted shall be based on the percentage of the electricity generated from the renewable energy resource.

(b) A renewable energy credit shall not be granted for renewable energy generated from a municipal solid waste incinerator to the extent that the renewable energy was generated by operating the incinerator in excess of the greater of the following, as applicable:

(i) The incinerator's nameplate capacity rating on January 1, 2008.

(ii) If the incinerator is expanded after the effective date of this act to an approximate continuous design rated capacity of not more than 950 tons per day pursuant to the terms of a final request for proposals issued not later than October 1986, the nameplate capacity rating required to accommodate that expansion.

(c) A renewable energy credit shall not be granted for renewable energy the renewable attributes of which are used by an electric provider in a commission-approved voluntary renewable energy program.

(2) Subject to subsection (3), the following additional renewable energy credits, to be known as Michigan incentive renewable energy credits, shall be granted under the following circumstances:

(a) 2 renewable energy credits for each megawatt hour of electricity from solar power.

(b) 1/5 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system, other than wind, at peak demand time as determined by the commission.

(c) 1/5 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system during off-peak hours, stored using advanced electric storage technology or a hydroelectric pumped storage facility, and used during peak hours. However, the number of renewable energy credits shall be calculated based on the number of megawatt hours of renewable energy used to charge the advanced electric storage technology or fill the pumped storage facility, not the number of megawatt hours actually discharged or generated by discharge from the advanced energy storage facility or pumped storage facility.

(d) 1/10 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system constructed using equipment made in this state as determined by the commission. The additional credit under this subdivision is available for the first 3 years after the renewable energy system first produces electricity on a commercial basis.

(e) 1/10 renewable energy credit for each megawatt hour of electricity from a renewable energy system constructed using a workforce composed of residents of this state as determined by the commission. The additional credit under this subdivision is available for the first 3 years after the renewable energy system first produces electricity on a commercial basis.

(3) A renewable energy credit expires at the earliest of the following times:

(a) When used by an electric provider to comply with its renewable energy credit standard.

(b) When substituted for an energy optimization credit under section 77.

(c) 3 years after the end of the month in which the renewable energy credit was generated.

(4) A renewable energy credit associated with renewable energy generated within 120 days after the start of a calendar year may be used to satisfy the prior year's renewable energy standard and expires when so used.

Sec. 41. (1) Renewable energy credits may be traded, sold, or otherwise transferred.

(2) An electric provider is responsible for demonstrating that a renewable energy credit used to comply with a renewable energy credit standard is derived from a renewable energy source and that the electric provider has not previously used or traded, sold, or otherwise transferred the renewable energy credit.

(3) The same renewable energy credit may be used by an electric provider to comply with both a federal standard for renewable energy and the renewable energy standard under this subpart. An electric provider that uses a renewable energy credit to comply with another state's standard for renewable energy shall not use the same renewable energy credit to comply with the renewable energy credit standard under this subpart.

(4) The commission shall establish a renewable energy credit certification and tracking program. The certification and tracking program may be contracted to and performed by a third party through a system of competitive bidding. The program shall include all of the following:

- (a) A process to certify renewable energy systems, including all existing renewable energy systems operating on the effective date of this act, as eligible to receive renewable energy credits.
 - (b) A process for verifying that the operator of a renewable energy system is in compliance with state and federal law applicable to the operation of the renewable energy system when certification is granted. If a renewable energy system becomes noncompliant with state or federal law, renewable energy credits shall not be granted for renewable energy generated by that renewable energy system during the period of noncompliance.
 - (c) A method for determining the date on which a renewable energy credit is generated and valid for transfer.
 - (d) A method for transferring renewable energy credits.
 - (e) A method for ensuring that each renewable energy credit transferred under this act is properly accounted for under this act.
 - (f) If the system is established by the commission, allowance for issuance, transfer, and use of renewable energy credits in electronic form.
 - (g) A method for ensuring that both a renewable energy credit and an advanced cleaner energy credit are not awarded for the same megawatt hour of energy.
- (5) A renewable energy credit purchased from a renewable energy system in this state is not required to be used in this state.

Sec. 43. (1) One advanced cleaner energy credit shall be granted to the owner of an advanced cleaner energy system for each megawatt hour of electricity generated from the advanced cleaner energy system. However, if an advanced cleaner energy system uses both an advanced cleaner energy technology and an energy technology that is not an advanced cleaner energy technology to generate electricity, the number of advanced cleaner energy credits granted shall be based on the percentage of the electricity generated from the advanced cleaner energy technology. If a facility or system, such as a gasification facility using biomass as feedstock, qualifies as both an advanced cleaner energy system and a renewable energy system, at the owner's option, either an advanced cleaner energy credit or a renewable energy credit, but not both, may be granted for any given megawatt hour of electricity generated by the facility or system.

- (2) An advanced cleaner energy credit expires at the earliest of the following times:
- (a) When substituted for a renewable energy credit under section 27 or an energy optimization credit under section 77.
 - (b) 3 years after the end of the month in which the advanced cleaner energy credit was generated.
- (3) Advanced cleaner energy credits may be traded, sold, or otherwise transferred.
- (4) The commission shall establish an advanced cleaner energy credit certification and tracking program. The certification and tracking program may be contracted to and performed by a third party through a system of competitive bidding. The program shall include all of the following:
- (a) A process to certify advanced cleaner energy systems, including all existing advanced cleaner energy systems operating on the effective date of this act, as eligible to receive advanced cleaner energy credits.
 - (b) A process for verifying that the operator of an advanced cleaner energy system is in compliance with state and federal law applicable to the operation of the advanced cleaner energy system when certification is granted. If an advanced cleaner energy system becomes noncompliant with state or federal law, advanced cleaner energy credits shall not be granted for advanced cleaner energy generated by that advanced cleaner energy system during the period of noncompliance.
 - (c) A method for determining the date on which an advanced cleaner energy credit is generated and valid for transfer.
 - (d) A method for transferring advanced cleaner energy credits.
 - (e) A method for ensuring that each advanced cleaner energy credit transferred is properly accounted for.

(f) Allowance for issuance, transfer, and use of advanced cleaner energy credits in electronic form.

(g) A method for ensuring that both a renewable energy credit and an advanced cleaner energy credit are not awarded for the same megawatt hour of electricity.

(5) An advanced cleaner energy credit purchased from an advanced cleaner energy system in this state is not required to be used in this state.

Sec. 45. (1) For an electric provider whose rates are regulated by the commission, the commission shall determine the appropriate charges for the electric provider's tariffs that permit recovery of the incremental cost of compliance subject to the retail rate impact limits set forth in subsection (2).

(2) An electric provider shall recover the incremental cost of compliance with the renewable energy standards by an itemized charge on the customer's bill for billing periods beginning not earlier than 90 days after the commission approves the electric provider's renewable energy plan under section 21 or 23 or determines under section 25 that the plan complies with this act. An electric provider shall not comply with the renewable energy standards to the extent that, as determined by the commission, recovery of the incremental cost of compliance will have a retail rate impact that exceeds any of the following:

(a) \$3.00 per month per residential customer meter.

(b) \$16.58 per month per commercial secondary customer meter.

(c) \$187.50 per month per commercial primary or industrial customer meter.

(3) The retail rate impact limits of subsection (2) apply only to the incremental costs of compliance and do not apply to costs approved for recovery by the commission other than as provided in this act.

(4) The incremental cost of compliance shall be calculated for a 20-year period beginning with approval of the renewable energy plan and shall be recovered on a levelized basis.

(5) In its billing statements for a residential customer, each provider shall report to the residential customer all of the following in a format consistent with other information on the customer bill:

(a) An itemized monthly charge, expressed in dollars and cents, collected from the customer for implementing the renewable energy program requirements of this act. In the first bill issued after the close of the previous year, an electric provider shall notify each residential customer that the customer may be entitled to an income tax credit to offset some of the annual amounts collected for the renewable energy program.

(b) An itemized monthly charge, expressed in dollars and cents, collected from the customer for implementing the energy optimization program requirements of this act.

(c) An estimated monthly savings, expressed in dollars and cents, for that customer to reflect the reductions in the monthly energy bill produced by the energy optimization program under this act.

(d) An estimated monthly savings, expressed in dollars and cents, for that customer to reflect the long-term, life-cycle, levelized costs of building and operating new conventional coal-fired electric generating power plants avoided under this act as determined by the commission.

(e) The website address at which the commission's annual report under section 51 is posted.

(6) For the first year of the programs under this part, the values reported under subsection (5) shall be estimates by the commission. The values in following years shall be based on the provider's actual customer experiences. If the provider is unable to provide customer-specific information under subsection (5)(b) or (c), it shall instead specify the state average itemized charge or savings, as applicable, for residential customers. The provider shall make this calculation based on a method approved by the commission.

(7) In determining long-term, life-cycle, levelized costs of building and operating and acquiring nonrenewable electric generating capacity and energy for the purpose of subsection (5)(d), the commission shall consider historic and predicted costs of financing, construction, operation, maintenance, fuel supplies, environmental protection, and other appropriate elements of energy production. For purposes of this comparison, the capacity of avoided new conventional coal-fired electric generating facilities shall be expressed in megawatts and avoided new conventional coal-fired electricity generation shall be expressed in megawatt hours. Avoided costs shall be measured in cents per kilowatt hour.

Sec. 47. (1) Subject to the retail rate impact limits under section 45, the commission shall consider all actual costs reasonably and prudently incurred in good faith to implement a commission-approved renewable energy plan by an electric provider whose rates are regulated by the commission to be a cost of service to be recovered by the electric provider. Subject to the retail rate impact limits under section 45, an electric provider whose rates are regulated by the commission shall recover through its retail electric rates all of the electric provider's incremental costs of compliance during the 20-year period beginning when the electric provider's plan is approved by the commission and all reasonable and prudent ongoing costs of compliance during and after that period. The recovery shall include, but is not limited to, the electric provider's authorized rate of return on equity for costs approved under this section, which shall remain fixed at the rate of return and debt to equity ratio that was in effect in the electric provider's base rates when the electric provider's renewable energy plan was approved.

(2) Incremental costs of compliance shall be calculated as follows:

(a) Determine the sum of the following costs to the extent those costs are reasonable and prudent and not already approved for recovery in electric rates as of the effective date of this act:

(i) Capital, operating, and maintenance costs of renewable energy systems or advanced cleaner energy systems, including property taxes, insurance, and return on equity associated with an electric provider's renewable energy systems or advanced cleaner energy systems, including the electric provider's renewable energy portfolio established to achieve compliance with the renewable energy standards and any additional renewable energy systems or advanced cleaner energy systems, that are built or acquired by the electric provider to maintain compliance with the renewable energy standards during the 20-year period beginning when the electric provider's plan is approved by the commission.

(ii) Financing costs attributable to capital, operating, and maintenance costs of capital facilities associated with renewable energy systems or advanced cleaner energy systems used to meet the renewable energy standard.

(iii) Costs that are not otherwise recoverable in rates approved by the federal energy regulatory commission and that are related to the infrastructure required to bring renewable energy systems or advanced cleaner energy systems used to achieve compliance with the renewable energy standards on to the transmission system, including interconnection and substation costs for renewable energy systems or advanced cleaner energy systems used to meet the renewable energy standard.

(iv) Ancillary service costs determined by the commission to be necessarily incurred to ensure the quality and reliability of renewable energy or advanced cleaner energy used to meet the renewable energy standards, regardless of the ownership of a renewable energy system or advanced cleaner energy technology.

(v) Except to the extent the costs are allocated under a different subparagraph, all of the following:

(A) The costs of renewable energy credits purchased under this act.

(B) The costs of contracts described in section 33(1).

(vi) Expenses incurred as a result of state or federal governmental actions related to renewable energy systems or advanced cleaner energy systems attributable to the renewable energy standards, including changes in tax or other law.

(vii) Any additional electric provider costs determined by the commission to be necessarily incurred to ensure the quality and reliability of renewable energy or advanced cleaner energy used to meet the renewable energy standards.

(b) Subtract from the sum of costs not already included in electric rates determined under subdivision (a) the sum of the following revenues:

(i) Revenue derived from the sale of environmental attributes associated with the generation of renewable energy or advanced cleaner energy systems attributable to the renewable energy standards. Such revenue shall not be considered in determining power supply cost recovery factors under section 6j of 1939 PA 3, MCL 460.6j.

(ii) Interest on regulatory liabilities.

(iii) Tax credits specifically designed to promote renewable energy or advanced cleaner energy.

(iv) Revenue derived from the provision of renewable energy or advanced cleaner energy to retail electric customers subject to a power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, of an electric provider whose rates are regulated by the commission. After providing an opportunity for a contested case hearing for an electric provider whose rates are regulated by the commission, the commission shall annually establish a price per megawatt hour. In addition, an electric provider whose rates are regulated by the commission may at any time petition the commission to revise the price. In setting the price per megawatt hour under this subparagraph, the commission shall consider factors including, but not limited to, projected capacity, energy, maintenance, and operating costs; information filed under section 6j of 1939 PA 3, MCL 460.6j; and information from wholesale markets, including, but not limited to, locational marginal pricing. This price shall be multiplied by the sum of the number of megawatt hours of renewable energy and the number of megawatt hours of advanced cleaner energy used to maintain compliance with the renewable energy standard. The product shall be considered a booked cost of purchased and net interchanged power transactions under section 6j of 1939 PA 3, MCL 460.6j. For energy purchased by such an electric provider under a renewable energy contract or advanced cleaner energy contract, the price shall be the lower of the amount established by the commission or the actual price paid and shall be multiplied by the number of megawatt hours of renewable energy or advanced cleaner energy purchased. The resulting value shall be considered a booked cost of purchased and net interchanged power under section 6j of 1939 PA 3, MCL 460.6j.

(v) Revenue from wholesale renewable energy sales and advanced cleaner energy sales. Such revenue shall not be considered in determining power supply cost recovery factors under section 6j of 1939 PA 3, MCL 460.6j.

(vi) Any additional electric provider revenue considered by the commission to be attributable to the renewable energy standards.

(vii) Any revenues recovered in rates for renewable energy costs that are included under subdivision (a).

(3) The commission shall authorize an electric provider whose rates are regulated by the commission to spend in any given month more to comply with this act and implement an approved renewable energy plan than the revenue actually generated by the revenue recovery mechanism. An electric provider whose rates are regulated by the commission shall recover its commission approved pre-tax rate of return on regulatory assets during the appropriate period. An electric provider whose rates are regulated by the commission shall record interest on regulatory liabilities at the average short-term borrowing rate available to the electric provider during the appropriate period. Any regulatory assets or liabilities resulting from the recovery costs of renewable energy or advanced cleaner energy attributable to renewable energy standards through the power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, shall continue to be reconciled under that section.

(4) If an electric provider's incremental costs of compliance in any given month during the 20-year period beginning when the electric provider's plan is approved by the commission are in excess of the revenue recovery mechanism as adjusted under section 49 and in excess of the balance of any accumulated reserve funds, subject to the minimum balance established under section 21, the electric provider shall immediately notify the commission. The commission shall promptly commence a contested case hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and modify the revenue recovery mechanism so that the minimum balance is restored. However, if the commission determines that recovery of the incremental costs of compliance would otherwise exceed the maximum retail rate impacts specified under section 45, it shall set the revenue recovery mechanism for that electric provider to correspond to the maximum retail rate impacts. Excess costs shall be accrued and deferred for recovery. Not later than the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission, for an electric provider whose rates are regulated by the commission, the commission shall determine the amount of deferred costs to be recovered under the revenue recovery mechanism and the recovery period, which shall not extend more than 5 years beyond the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission. The recovery of excess costs shall be proportional to the retail rate impact limits in section 45 for each customer class. The recovery of excess costs alone, or, if begun before the expiration of the 20-year period, in combination with the recovery of incremental costs of compliance under the revenue recovery mechanism, shall not exceed the retail rate impact limits of section 45 for each customer class.

(5) If, at the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission, an electric provider whose rates are regulated by the commission has a regulatory liability, the refund to customer classes shall be proportional to the amounts paid by those customer classes under the revenue recovery mechanism.

(6) After achieving compliance with the renewable energy standard for 2015, the actual costs reasonably and prudently incurred to continue to comply with this subpart both during and after the conclusion of the 20-year period beginning when the electric provider's plan is approved by the commission shall be considered costs of service. The commission shall determine a mechanism for an electric provider whose rates are regulated by the commission to recover these costs in its retail electric rates, subject to the retail rate impact limits in section 45. Remaining and future regulatory assets shall be recovered consistent with subsections (2) and (3) and section 49.

Sec. 49. (1) This section applies only to an electric provider whose rates are regulated by the commission. Concurrent with the submission of each report under section 51, the commission shall commence an annual proceeding, to be known as a renewable cost reconciliation, for each electric provider whose rates are regulated by the commission. The renewable cost reconciliation proceeding shall be conducted as a contested case pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Reasonable discovery shall be permitted before and during the reconciliation proceeding to assist in obtaining evidence concerning reconciliation issues including, but not limited to, the reasonableness and prudence of expenditures and the amounts collected pursuant to the revenue recovery mechanism.

(2) At the renewable cost reconciliation, an electric provider may propose any necessary modifications of the revenue recovery mechanism to ensure the electric provider's recovery of its incremental cost of compliance with the renewable energy standards.

(3) The commission shall reconcile the pertinent revenues recorded and the allowance for the nonvolumetric revenue recovery mechanism with the amounts actually expensed and projected according to the electric provider's plan for compliance. The commission shall consider any issue regarding the reasonableness and prudence of expenses for which customers were charged in the relevant reconciliation period. In its order, the commission shall do all of the following:

(a) Make a determination of an electric provider's compliance with the renewable energy standards, subject to section 31.

(b) Adjust the revenue recovery mechanism for the incremental costs of compliance. The commission shall ensure that the retail rate impacts under this renewable cost reconciliation revenue recovery mechanism do not exceed the maximum retail rate impacts specified under section 45. The commission shall ensure that the recovery mechanism is projected to maintain a minimum balance of accumulated reserve so that a regulatory asset does not accrue.

(c) Establish the price per megawatt hour for renewable energy and advanced cleaner energy capacity and for renewable energy and advanced cleaner energy to be recovered through the power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, as outlined in section 47(2)(b)(iv).

(d) Adjust, if needed, the minimum balance of accumulated reserve funds established under section 21.

(4) If an electric provider has recorded a regulatory liability in any given month during the 20-year period beginning when the electric provider's plan is approved by the commission, interest on the regulatory liability balance shall be accrued at the average short-term borrowing rate available to the electric provider during the appropriate period, and shall be used to fund incremental costs of compliance incurred in subsequent periods within the 20-year period beginning when the electric provider's plan is approved by the commission.

Sec. 51. (1) By a time determined by the commission, each electric provider shall submit to the commission an annual report that provides information relating to the actions taken by the electric provider to comply with the renewable energy standards. By that same time, a municipally-owned electric utility shall submit a copy of the report to the governing body of the municipally-owned electric utility, and a cooperative electric utility shall submit a copy of the report to its board of directors.

(2) An annual report under subsection (1) shall include all of the following information:

(a) The amount of electricity and renewable energy credits that the electric provider generated or acquired from renewable energy systems during the reporting period and the amount of renewable energy credits that the electric provider acquired, sold, traded, or otherwise transferred during the reporting period.

(b) The amount of electricity that the electric provider generated or acquired from advanced cleaner energy systems pursuant to this act during the reporting period.

(c) The capacity of each renewable energy system and advanced cleaner energy system owned, operated, or controlled by the electric provider, the total amount of electricity generated by each renewable energy system or advanced cleaner energy system during the reporting period, and the percentage of that total amount of electricity from each renewable energy system that was generated directly from renewable energy.

(d) Whether, during the reporting period, the electric provider began construction on, acquired, or placed into operation a renewable energy system or advanced cleaner energy system.

(e) Expenditures made in the past year and anticipated future expenditures to comply with this subpart.

(f) Any other information that the commission determines necessary.

(3) Concurrent with the submission of each report under subsection (1), a municipally-owned electric utility shall submit a summary of the report to its customers in their bills with a bill insert and to its governing body. Concurrent with the submission of each report under subsection (1), a cooperative electric utility shall submit a summary of the report to its members in a periodical issued by an association of rural electric cooperatives and to its board of directors. A municipally-owned electric utility or cooperative electric provider shall make a copy of the report available at its office and shall post a copy of the report on its website. A summary under this section shall indicate that a copy of the report is available at the office or website.

(4) The commission shall monitor reports submitted under subsection (1) and ensure that actions taken under this act by electric providers serving customers in the same distribution territory do not create an unfair competitive advantage for any of those electric providers.

(5) By February 15, 2011 and each year thereafter, the commission shall submit to the standing committees of the senate and house of representatives with primary responsibility for energy and environmental issues a report that does all of the following:

(a) Summarizes data collected under this section.

(b) Discusses the status of renewable energy and advanced cleaner energy in this state and the effect of this subpart and subpart B on electricity prices.

(c) For each of the different types of renewable energy sold at retail in this state, specifies the difference between the cost of the renewable energy and the cost of electricity generated from new conventional coal-fired electric generating facilities.

(d) Discusses how the commission is fulfilling the requirements of subsection (4).

(e) Evaluates whether this subpart has been cost-effective.

(f) Provides a comparison of the cost effectiveness of the methods of an electric utility with 1,000,000 or more retail customers in this state as of January 1, 2008 obtaining renewable energy credits under the options described in section 33.

(g) Describes the impact of this subpart on employment in this state. The commission shall consult with other appropriate agencies of the department of labor and economic growth in the development of this information.

(h) Describes the effect of the percentage limits under section 27(7) on the development of advanced cleaner energy.

(i) Makes any recommendations the commission may have concerning amendments to this subpart, including changes in the percentage limits under section 27(7), or changes in the definition of renewable energy resource or renewable energy system to reflect environmentally preferable technology.

(6) The department of labor and economic growth shall maintain on the department's website a copy of the commission's most recent report under subsection (5).

Sec. 53. (1) If an electric provider whose rates are regulated by the commission fails to meet a renewable energy credit standard by the applicable deadline, subject to any extensions under section 31, both of the following apply:

(a) The electric provider shall purchase sufficient renewable energy credits necessary to meet the renewable energy credit standard.

(b) The electric provider shall not recover from its ratepayers the cost of purchasing renewable energy credits under subdivision (a) if the commission finds that the electric provider did not make a good faith effort to meet the renewable energy standard, subject to any extensions under section 31.

(2) The attorney general or any customer of a cooperative electric utility that has elected to become member-regulated under the electric cooperative member-regulation act, 2008 PA 167, MCL 460.31 to 460.39, may commence a civil action for injunctive relief against such a cooperative electric utility if the electric provider fails to meet the applicable requirements of this subpart or an order issued or rule promulgated under this subpart.

(3) An action under subsection (2) shall be commenced in the circuit court for the circuit in which the principal office of the cooperative electric utility that has elected to become member-regulated is located. An action shall not be filed under subsection (2) unless the prospective plaintiff has given the prospective defendant and the commission at least 60 days' written notice of the prospective plaintiff's intent to sue, the basis for the suit, and the relief sought. Within 30 days after the prospective defendant receives written notice of the prospective plaintiff's intent to sue, the prospective defendant and plaintiff shall meet and make a good faith attempt to determine if there is a credible basis for the action. If both parties agree that there is a credible basis for the action, the prospective defendant shall take all reasonable and prudent steps necessary to comply with the applicable requirements of this subpart within 90 days of the meeting.

(4) In issuing a final order in an action brought under subsection (2), the court may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party.

(5) Upon receipt of a complaint by an alternative electric supplier's customer or on the commission's own motion, the commission may conduct a contested case to review allegations that the alternative electric supplier has violated this subpart or an order issued or rule promulgated under this subpart. If the commission finds, after notice and hearing, that an alternative electric supplier has violated this subpart or an order issued or rule promulgated under this subpart, the commission shall do 1 or more of the following:

(a) Revoke the license of the alternative electric supplier.

(b) Issue a cease and desist order.

(c) Order the alternative electric supplier to pay a civil fine of not less than \$5,000.00 or more than \$50,000.00 for each violation.

(6) Upon receipt of a complaint by any customer of a municipally-owned electric utility or upon the commission's own motion, the commission may review allegations that the municipally-owned electric utility has violated this subpart or an order issued or rule promulgated under this subpart. If the commission finds, after notice and hearing, that a municipally-owned electric utility has violated this subpart or an order issued or rule promulgated under this subpart, the commission shall advise the attorney general. The attorney general may commence a civil action for injunctive relief against the municipally-owned electric utility in the circuit court for the circuit in which the principal office of the municipally-owned electric utility is located.

(7) In issuing a final order in an action brought under subsection (6), the court may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party.

SUBPART B. ENERGY OPTIMIZATION

Sec. 71. (1) A provider shall file a proposed energy optimization plan with the commission within the following time period:

(a) For a provider whose rates are regulated by the commission, 90 days after the commission enters a temporary order under section 171.

(b) For a cooperative electric utility that has elected to become member-regulated under the electric cooperative member regulation act, 2008 PA 167, MCL 460.31 to 460.39, or a municipally-owned electric utility, 120 days after the commission enters a temporary order under section 171.

(2) The overall goal of an energy optimization plan shall be to reduce the future costs of provider service to customers. In particular, an EO plan shall be designed to delay the need for constructing new electric generating facilities and thereby protect consumers from incurring the costs of such construction. The proposed energy optimization plan shall be subject to approval in the same manner as an electric provider's renewable energy plan under subpart A. A provider may combine its energy optimization plan with its renewable energy plan.

(3) An energy optimization plan shall do all of the following:

(a) Propose a set of energy optimization programs that include offerings for each customer class, including low income residential. The commission shall allow providers flexibility to tailor the relative amount of effort devoted to each customer class based on the specific characteristics of their service territory.

(b) Specify necessary funding levels.

(c) Describe how energy optimization program costs will be recovered as provided in section 89(2).

(d) Ensure, to the extent feasible, that charges collected from a particular customer rate class are spent on energy optimization programs for that rate class.

(e) Demonstrate that the proposed energy optimization programs and funding are sufficient to ensure the achievement of applicable energy optimization standards.

(f) Specify whether the number of megawatt hours of electricity or decatherms or MCFs of natural gas used in the calculation of incremental energy savings under section 77 will be weather-normalized or based on the average number of megawatt hours of electricity or decatherms or MCFs of natural gas sold by the provider annually during the previous 3 years to retail customers in this state. Once the plan is approved by the commission, this option shall not be changed.

(g) Demonstrate that the provider's energy optimization programs, excluding program offerings to low income residential customers, will collectively be cost-effective.

(h) Provide for the practical and effective administration of the proposed energy optimization programs. The commission shall allow providers flexibility in designing their energy optimization programs and administrative approach. A provider's energy optimization programs or any part thereof, may be administered, at the provider's option, by the provider, alone or jointly with other providers, by a state agency, or by an appropriate experienced nonprofit organization selected after a competitive bid process.

(i) Include a process for obtaining an independent expert evaluation of the actual energy optimization programs to verify the incremental energy savings from each energy optimization program for purposes of section 77. All such evaluations shall be subject to public review and commission oversight.

(4) Subject to subsection (5), an energy optimization plan may do 1 or more of the following:

(a) Utilize educational programs designed to alter consumer behavior or any other measures that can reasonably be used to meet the goals set forth in subsection (2).

(b) Propose to the commission measures that are designed to meet the goals set forth in subsection (1) and that provide additional customer benefits.

(5) Expenditures under subsection (4) shall not exceed 3% of the costs of implementing the energy optimization plan.

Sec. 73. (1) A provider's energy optimization plan shall be filed, reviewed, and approved or rejected by the commission and enforced subject to the same procedures that apply to a renewable energy plan.

(2) The commission shall not approve a proposed energy optimization plan unless the commission determines that the EO plan meets the utility system resource cost test and is reasonable and prudent. In determining whether the EO plan is reasonable and prudent, the commission shall review each element and consider whether it would reduce the future cost of service for the provider's customers. In addition, the commission shall consider at least all of the following:

- (a) The specific changes in customers' consumption patterns that the proposed EO plan is attempting to influence.
- (b) The cost and benefit analysis and other justification for specific programs and measures included in a proposed EO plan.
- (c) Whether the proposed EO plan is consistent with any long-range resource plan filed by the provider with the commission.
- (d) Whether the proposed EO plan will result in any unreasonable prejudice or disadvantage to any class of customers.
- (e) The extent to which the EO plan provides programs that are available, affordable, and useful to all customers.

Sec. 75. An energy optimization plan of a provider whose rates are regulated by the commission may authorize a commensurate financial incentive for the provider for exceeding the energy optimization performance standard. Payment of any financial incentive authorized in the EO plan is subject to the approval of the commission. The total amount of a financial incentive shall not exceed the lesser of the following amounts:

- (a) 25% of the net cost reductions experienced by the provider's customers as a result of implementation of the energy optimization plan.
- (b) 15% percent of the provider's actual energy efficiency program expenditures for the year.

Sec. 77. (1) Except as provided in section 81 and subject to the sales revenue expenditure limits in section 89, an electric provider's energy optimization programs under this subpart shall collectively achieve the following minimum energy savings:

- (a) Biennial incremental energy savings in 2008-2009 equivalent to 0.3% of total annual retail electricity sales in megawatt hours in 2007.
 - (b) Annual incremental energy savings in 2010 equivalent to 0.5% of total annual retail electricity sales in megawatt hours in 2009.
 - (c) Annual incremental energy savings in 2011 equivalent to 0.75% of total annual retail electricity sales in megawatt hours in 2010.
 - (d) Annual incremental energy savings in 2012, 2013, 2014, and 2015 and, subject to section 97, each year thereafter equivalent to 1.0% of total annual retail electricity sales in megawatt hours in the preceding year.
- (2) If an electric provider uses load management to achieve energy savings under its energy optimization plan, the minimum energy savings required under subsection (1) shall be adjusted by an amount such that the ratio of the minimum energy savings to the sum of maximum expenditures under section 89 and the load management expenditures remains constant.
- (3) A natural gas provider shall meet the following minimum energy optimization standards using energy efficiency programs under this subpart:

- (a) Biennial incremental energy savings in 2008-2009 equivalent to 0.1% of total annual retail natural gas sales in decatherms or equivalent MCFs in 2007.
 - (b) Annual incremental energy savings in 2010 equivalent to 0.25% of total annual retail natural gas sales in decatherms or equivalent MCFs in 2009.
 - (c) Annual incremental energy savings in 2011 equivalent to 0.5% of total annual retail natural gas sales in decatherms or equivalent MCFs in 2010.
 - (d) Annual incremental energy savings in 2012, 2013, 2014, and 2015 and, subject to section 97, each year thereafter equivalent to 0.75% of total annual retail natural gas sales in decatherms or equivalent MCFs in the preceding year.
- (4) Incremental energy savings under subsection (1) or (3) for the 2008-2009 biennium or any year thereafter shall be determined for a provider by adding the energy savings expected to be achieved during a 1-year period by energy optimization measures

implemented during the 2008-2009 biennium or any year thereafter under any energy efficiency programs consistent with the provider's energy efficiency plan.

(5) For purposes of calculations under subsection (1) or (3), total annual retail electricity or natural gas sales in a year shall be based on 1 of the following at the option of the provider as specified in its energy optimization plan:

(a) The number of weather-normalized megawatt hours or decatherms or equivalent MCFs sold by the provider to retail customers in this state during the year preceding the biennium or year for which incremental energy savings are being calculated.

(b) The average number of megawatt hours or decatherms or equivalent MCFs sold by the provider during the 3 years preceding the biennium or year for which incremental energy savings are being calculated.

(6) For any year after 2012, an electric provider may substitute renewable energy credits associated with renewable energy generated that year from a renewable energy system constructed after the effective date of this act, advanced cleaner energy credits other than credits from industrial cogeneration using industrial waste energy, load management that reduces overall energy usage, or a combination thereof for energy optimization credits otherwise required to meet the energy optimization performance standard, if the substitution is approved by the commission. The commission shall not approve a substitution unless the commission determines that the substitution is cost-effective and, if the substitution involves advanced cleaner energy credits, that the advanced cleaner energy system provides carbon dioxide emissions benefits. In determining whether the substitution of advanced cleaner energy credits is cost-effective compared to other available energy optimization measures, the commission shall consider the environmental costs related to the advanced cleaner energy system, including the costs of environmental control equipment or greenhouse gas constraints or taxes. The commission's determinations shall be made after a contested case hearing that includes consultation with the department of environmental quality on the issue of carbon dioxide emissions benefits, if relevant, and environmental costs.

(7) Renewable energy credits, advanced cleaner energy credits, load management that reduces overall energy usage, or a combination thereof shall not be used by a provider to meet more than 10% of the energy optimization standard. Substitutions for energy optimization credits shall be made at the following rates per energy optimization credit:

(a) 1 renewable energy credit.

(b) 1 advanced cleaner energy credit from plasma arc gasification.

(c) 4 advanced cleaner energy credits other than from plasma arc gasification.

Sec. 79. Advanced cleaner energy systems that are the source of the advanced cleaner energy credits used under section 77 shall be either located outside this state in the service territory of any electric provider that is not an alternative electric supplier or located anywhere in this state.

Sec. 81. (1) This section applies to electric providers that meet both of the following requirements:

(a) Serve not more than 200,000 customers in this state.

(b) Had average electric rates for residential customers using 1,000 kilowatt hours per month that are less than 75% of the average electric rates for residential customers using 1,000 kilowatt hours per month for all electric utilities in this state, according to the January 1, 2007, "comparison of average rates for MPSC-regulated electric utilities in Michigan" compiled by the commission.

(2) Beginning 2 years after a provider described in subsection (1) begins implementation of its energy optimization plan, the provider may petition the commission to establish alternative energy optimization standards. The petition shall identify the efforts taken by the provider to meet the electric provider energy optimization standards and demonstrate why the energy optimization standards cannot reasonably be met with energy optimization programs that are collectively cost-effective. If the commission finds that the petition meets the requirements of this subsection, the commission shall revise the energy optimization standards as applied to that electric provider to a level that can reasonably be met with energy optimization programs that are collectively cost-effective.

Sec. 83. (1) One energy optimization credit shall be granted to a provider for each megawatt hour of annual incremental energy savings achieved through energy optimization.

(2) An energy optimization credit expires as follows:

(a) When used by a provider to comply with its energy optimization performance standard.

(b) When substituted for a renewable energy credit under section 27.

(c) As provided in subsection (3).

(3) If a provider's incremental energy savings in the 2008-2009 biennium or any year thereafter exceed the applicable energy optimization standard, the associated energy optimization credits may be carried forward and applied to the next year's energy optimization standard. However, all of the following apply:

(a) The number of energy optimization credits carried forward shall not exceed 1/3 of the next year's standard. Any energy optimization credits carried forward to the next year shall expire that year. Any remaining energy optimization credits shall expire at the end of the year in which the incremental energy savings were achieved, unless substituted, by an electric provider, for renewable energy credits under section 27.

(b) Energy optimization credits shall not be carried forward if, for its performance during the same biennium or year, the provider accepts a financial incentive under section 75. The excess energy optimization credits shall expire at the end of the year in which the incremental energy savings were achieved, unless substituted, by an electric provider, for renewable energy credits under section 27.

Sec. 85. (1) An energy optimization credit is not transferable to another entity.

(2) The commission, in the 2011 report under section 97, shall make recommendations concerning a program for transferability of energy optimization credits.

Sec. 87. The commission shall establish an energy optimization credit certification and tracking program. The certification and tracking program may be contracted to and performed by a third party through a system of competitive bidding. The program shall include all of the following:

(a) A determination of the date after which energy optimization must be achieved to be eligible for an energy optimization credit.

(b) A method for ensuring that each energy optimization credit substituted for a renewable energy credit under section 27 or carried forward under section 83 is properly accounted for.

(c) If the system is established by the commission, allowance for issuance and use of energy optimization credits in electronic form.

Sec. 89. (1) The commission shall allow a provider whose rates are regulated by the commission to recover the actual costs of implementing its approved energy optimization plan. However, costs exceeding the overall funding levels specified in the energy optimization plan are not recoverable unless those costs are reasonable and prudent and meet the utility system resource cost test. Furthermore, costs for load management undertaken pursuant to an energy optimization plan are not recoverable as energy optimization program costs under this section, but may be recovered as described in section 95.

(2) Under subsection (1), costs shall be recovered from all natural gas customers and from residential electric customers by volumetric charges, from all other metered electric customers by per-meter charges, and from unmetered electric customers by an appropriate charge, applied to utility bills as an itemized charge.

(3) For the electric primary customer rate class customers of electric providers and customers of natural gas providers with an aggregate annual natural gas billing demand of more than 100,000 decatherms or equivalent MCFs for all sites in the natural gas utility's service territory, the cost recovery under subsection (1) shall not exceed 1.7% of total retail sales revenue for that customer class. For electric secondary customers and for residential customers, the cost recovery shall not exceed 2.2% of total retail sales revenue for those customer classes.

(4) Upon petition by a provider whose rates are regulated by the commission, the commission shall authorize the provider to capitalize all energy efficiency and energy conservation equipment, materials, and installation costs with an expected economic

life greater than 1 year incurred in implementing its energy optimization plan, including such costs paid to third parties, such as customer rebates and customer incentives. The provider shall also propose depreciation treatment with respect to its capitalized costs in its energy optimization plan, and the commission shall order reasonable depreciation treatment related to these capitalized costs. A provider shall not capitalize payments made to an independent energy optimization program administrator under section 91.

(5) The established funding level for low income residential programs shall be provided from each customer rate class in proportion to that customer rate class's funding of the provider's total energy optimization programs. Charges shall be applied to distribution customers regardless of the source of their electricity or natural gas supply.

(6) The commission shall authorize a natural gas provider that spends a minimum of 0.5% of total natural gas retail sales revenues, including natural gas commodity costs, in a year on commission-approved energy optimization programs to implement a symmetrical revenue decoupling true-up mechanism that adjusts for sales volumes that are above or below the projected levels that were used to determine the revenue requirement authorized in the natural gas provider's most recent rate case. In determining the symmetrical revenue decoupling true-up mechanism utilized for each provider, the commission shall give deference to the proposed mechanism submitted by the provider. The commission may approve an alternative mechanism if the commission determines that the alternative mechanism is reasonable and prudent. The commission shall authorize the natural gas provider to decouple rates regardless of whether the natural gas provider's energy optimization programs are administered by the provider or an independent energy optimization program administrator under section 91.

(7) A natural gas provider or an electric provider shall not spend more than the following percentage of total utility retail sales revenues, including electricity or natural gas commodity costs, in any year to comply with the energy optimization performance standard without specific approval from the commission:

(a) In 2009, 0.75% of total retail sales revenues for 2007.

(b) In 2010, 1.0% of total retail sales revenues for 2008.

(c) In 2011, 1.5% of total retail sales revenues for 2009.

(d) In 2012 and each year thereafter, 2.0% of total retail sales revenues for the 2 years preceding.

Sec. 91. (1) Except for section 89(6), sections 71 to 89 do not apply to a provider that pays the following percentage of total utility sales revenues, including electricity or natural gas commodity costs, each year to an independent energy optimization program administrator selected by the commission:

(a) In 2009, 0.75% of total retail sales revenues for 2007.

(b) In 2010, 1.0% of total retail sales revenues for 2008.

(c) In 2011, 1.5% of total retail sales revenues for 2009.

(d) In 2012 and each year thereafter, 2.0% of total retail sales revenues for the 2 years preceding.

(2) An alternative compliance payment received from a provider by the energy optimization program administrator under subsection (1) shall be used to administer energy efficiency programs for the provider. Money unspent in a year shall be carried forward to be spent in the subsequent year.

(3) The commission shall allow a provider to recover an alternative compliance payment under subsection (1). This cost shall be recovered from residential customers by volumetric charges, from all other metered customers by per-meter charges, and from unmetered customers by an appropriate charge, applied to utility bills.

(4) An alternative compliance payment under subsection (1) shall only be used to fund energy optimization programs for that provider's customers. To the extent feasible, charges collected from a particular customer rate class and paid to the energy optimization program administrator under subsection (1) shall be devoted to energy optimization programs and services for that rate class.

(5) Money paid to the energy optimization program administrator under subsection (1) and not spent by the administrator that year shall remain available for expenditure the following year, subject to the requirements of subsection (4).

(6) The commission shall select a qualified nonprofit organization to serve as an energy optimization program administrator under this section, through a competitive bid process.

(7) The commission shall arrange for a biennial independent audit of the energy optimization program administrator.

Sec. 93. (1) An eligible primary or secondary electric customer is exempt from charges the customer would otherwise incur under section 89 or 91 if the customer files with its electric provider and implements a self-directed energy optimization plan as provided in this section.

(2) Eligibility requirements for the exemption under subsection (1) are as follows:

(a) In 2009 or 2010, the customer must have had an annual peak demand in the preceding year of at least 2 megawatts at each site to be covered by the self-directed plan or 10 megawatts in the aggregate at all sites to be covered by the plan.

(b) In 2011, 2012, or 2013, the customer or customers must have had an annual peak demand in the preceding year of at least 1 megawatt at each site to be covered by the self-directed plan or 5 megawatts in the aggregate at all sites to be covered by the plan.

(c) In 2014 or any year thereafter, the customer or customers must have had an annual peak demand in the preceding year of at least 1 megawatt in the aggregate at all sites to be covered by the self-directed plan.

(3) The commission shall by order establish the rates, terms, and conditions of service for customers related to this subpart.

(4) The commission shall by order do all of the following:

(a) Require a customer to utilize the services of an energy optimization service company to develop and implement a self-directed plan. This subdivision does not apply to a customer that had an annual peak demand in the preceding year of at least 2 megawatts at each site to be covered by the self-directed plan or 10 megawatts in the aggregate at all sites to be covered by the self-directed plan.

(b) Provide a mechanism to recover from customers under subdivision (a) the costs for provider level review and evaluation.

(c) Provide a mechanism to cover the costs of the low income energy optimization program under section 89.

(5) All of the following apply to a self-directed energy optimization plan under subsection (1):

(a) The self-directed plan shall be a multiyear plan for an ongoing energy optimization program.

(b) The self-directed plan shall provide for aggregate energy savings that for each year meet or exceed the energy optimization performance standards based on the electricity purchases in the previous year for the site or sites covered by the self-directed plan.

(c) Under the self-directed plan, energy optimization shall be calculated based on annual electricity usage. Annual electricity usage shall be normalized so that none of the following are included in the calculation of the percentage of incremental energy savings:

(i) Changes in electricity usage because of changes in business activity levels not attributable to energy optimization.

(ii) Changes in electricity usage because of the installation, operation, or testing of pollution control equipment.

(d) The self-directed plan shall specify whether electricity usage will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the self-directed plan is submitted to the provider, this option shall not be changed.

(e) The self-directed plan shall outline how the customer intends to achieve the incremental energy savings specified in the self-directed plan.

(6) A self-directed energy optimization plan shall be incorporated into the relevant electric provider's energy optimization plan. The self-directed plan and information submitted by the customer under subsection (9) are confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Projected energy savings from measures implemented under a self-directed plan shall be attributed to the relevant provider's energy optimization programs for the purposes of determining annual incremental energy savings achieved by the provider under section 77 or 81, as applicable.

(7) Once a customer begins to implement a self-directed plan at a site covered by the self-directed plan, that site is exempt from energy optimization program charges under section 89 or 91 and is not eligible to participate in the relevant electric provider's energy optimization programs.

(8) A customer implementing a self-directed energy optimization plan under this section shall submit to the customer's electric provider every 2 years a brief report documenting the energy efficiency measures taken under the self-directed plan during that 2-year period, and the corresponding energy savings that will result. The report shall provide sufficient information for the provider and the commission to monitor progress toward the goals in the self-directed plan and to develop reliable estimates of the energy savings that are being achieved from self-directed plans. A customer shall promptly notify the provider if the customer fails to achieve incremental energy savings as set forth in its self-directed plan for a year that will be the first year covered by the next biannual report. If a customer submitting a report or notice under this subsection wishes to amend its self-directed plan, the customer shall submit with the report or notice an amended self-directed plan. A report under this subsection shall be accompanied by an affidavit from a knowledgeable official of the customer that the information in the report is true and correct to the best of the official's knowledge and belief. If the customer has retained an independent energy optimization service company, the requirements of this subsection shall be met by the energy optimization service company.

(9) An electric provider shall provide an annual report to the commission that identifies customers implementing self-directed energy optimization plans and summarizes the results achieved cumulatively under those self-directed plans. The commission may request additional information from the electric provider. If the commission has sufficient reason to believe the information is inaccurate or incomplete, it may request additional information from the customer to ensure accuracy of the report.

(10) If the commission determines after a contested case hearing that the minimum energy optimization goals under subsection (5)(b) have not been achieved at the sites covered by a self-directed plan, in aggregate, the commission shall order the customer or customers collectively to pay to this state an amount calculated as follows:

(a) Determine the proportion of the shortfall in achieving the minimum energy optimization goals under subsection(5)(b).

(b) Multiply the figure under subdivision (a) by the energy optimization charges from which the customer or customers collectively were exempt under subsection (1).

(c) Multiply the product under subdivision (b) by a number not less than 1 or greater than 2, as determined by the commission based on the reasons for failure to meet the minimum energy optimization goals.

(11) If a customer has submitted a self-directed plan to an electric provider, the customer, the customer's energy optimization service company, if applicable, or the electric provider shall provide a copy of the self-directed plan to the commission upon request.

(12) By September 1, 2010, following a public hearing, the commission shall establish an approval process for energy optimization service companies. The approval process shall ensure that energy optimization service companies have the expertise, resources, and business practices to reliably provide energy optimization services that meet the requirements of this section. The commission may adopt by reference the past or current standards of a national or regional certification or licensing program for energy optimization service companies. However, the approval process shall also provide an opportunity for energy optimization service companies that are not recognized by such a program to be approved by posting a bond in an amount determined by the commission and meeting any other requirements adopted by the commission for the purposes of this subsection. The approval process for energy optimization service companies shall require adherence to a code of conduct governing the relationship between energy optimization service companies and electric providers.

(13) The department of labor and economic growth shall maintain on the department's website a list of energy optimization service companies approved under subsection (12).

Sec. 95. (1) The commission shall do all of the following:

- (a) Promote load management in appropriate circumstances.
 - (b) Actively pursue increasing public awareness of load management techniques.
 - (c) Engage in regional load management efforts to reduce the annual demand for energy whenever possible.
 - (d) Work with residential, commercial, and industrial customers to reduce annual demand and conserve energy through load management techniques and other activities it considers appropriate. The commission shall file a report with the legislature by December 31, 2010 on the effort to reduce peak demand. The report shall also include any recommendations for legislative action concerning load management that the commission considers necessary.
- (2) The commission may allow a provider whose rates are regulated by the commission to recover costs for load management undertaken pursuant to an energy optimization plan through base rates as part of a proceeding under section 6 of 1939 PA 3, MCL 460.6, if the costs are reasonable and prudent and meet the utility systems resource cost test.
- (3) The commission shall do all of the following:
- (a) Promote energy efficiency and energy conservation.
 - (b) Actively pursue increasing public awareness of energy conservation and energy efficiency.
 - (c) Actively engage in energy conservation and energy efficiency efforts with providers.
 - (d) Engage in regional efforts to reduce demand for energy through energy conservation and energy efficiency.
 - (e) By November 30, 2009, and each year thereafter, submit to the standing committees of the senate and house of representatives with primary responsibility for energy and environmental issues a report on the effort to implement energy conservation and energy efficiency programs or measures. The report may include any recommendations of the commission for energy conservation legislation.
- (4) This subpart does not limit the authority of the commission, following an integrated resource plan proceeding and as part of a rate-making process, to allow a provider whose rates are regulated by the commission to recover for additional prudent energy efficiency and energy conservation measures not included in the provider's energy optimization plan if the provider has met the requirements of the energy optimization program.
- Sec. 97. (1) By a time determined by the commission, each provider shall submit to the commission an annual report that provides information relating to the actions taken by the provider to comply with the energy optimization standards. By that same time, a municipally-owned electric utility shall submit a copy of the report to the governing body of the municipally-owned electric utility, and a cooperative electric utility shall submit a copy of the report to its board of directors.
- (2) An annual report under subsection (1) shall include all of the following information:
- (a) The number of energy optimization credits that the provider generated during the reporting period.
 - (b) Expenditures made in the past year and anticipated future expenditures to comply with this subpart.
 - (c) Any other information that the commission determines necessary.
- (3) Concurrent with the submission of each report under subsection (1), a municipally-owned electric utility shall submit a summary of the report to its customers in their bills with a bill insert and to its governing body. Concurrent with the submission of each report under subsection (1), a cooperative electric utility shall submit a summary of the report to its members in a periodical issued by an association of rural electric cooperatives and to its board of directors. A municipally-owned electric utility or cooperative electric provider shall make a copy of the report available at its office and shall post a copy of the report on its website. A summary under this section shall indicate that a copy of the report is available at the office or website.

(4) Not later than 1 year after the effective date of this act, the commission shall submit a report on the potential rate impacts on all classes of customers if the electric providers whose rates are regulated by the commission decouple rates. The report shall be submitted to the standing committees of the senate and house of representatives with primary responsibility for energy and environmental issues. The commission's report shall review whether decoupling would be cost-effective and would reduce the overall consumption of fossil fuels in this state.

(5) By October 1, 2010, the commission shall submit to the committees described in subsection (4) any recommendations for legislative action to increase energy conservation and energy efficiency based on reports under subsection (1), the energy optimization plans approved under section 89, and the commission's own investigation. By March 1, 2013, the commission shall submit to those committees a report on the progress of electric providers in achieving reductions in energy use. The commission may use an independent evaluator to review the submissions by electric providers.

(6) By February 15, 2011 and each year thereafter and by September 30, 2015, the commission shall submit to the committees described in subsection (4) a report that evaluates and determines whether this subpart and subpart A have each been cost-effective and makes recommendations to the legislature. The report shall be combined with any concurrent report by the commission under section 51.

(7) The report required by September 30, 2015 under subsection (6) shall also review the opportunities for additional cost-effective energy optimization programs and make any recommendations the commission may have for legislation providing for the continuation, expansion, or reduction of energy optimization standards. That report shall also include the commission's determinations of all of the following:

(a) The percentage of total energy savings required by the energy optimization standards that have actually been achieved by each electric provider and by all electric providers cumulatively.

(b) The percentage of total energy savings required by the energy optimization standards that have actually been achieved by each natural gas provider and by all natural gas providers cumulatively.

(c) For each provider, whether that provider's program under this subpart has been cost-effective.

(8) If the commission determines in its report required by September 30, 2015 under subsection (6) or determines subsequently that a provider's energy optimization program under this subpart has not been cost-effective, the provider's program is suspended beginning 180 days after the date of the report or subsequent determination. If a provider's energy optimization program is suspended under this subsection, both of the following apply:

(a) The provider shall maintain cumulative incremental energy savings in megawatt hours or decatherms or equivalent MCFs in subsequent years at the level actually achieved during the year preceding the year in which the commission's determination is made.

(b) The provider shall not impose energy optimization charges in subsequent years except to the extent necessary to recover unrecovered energy optimization expenses incurred under this subpart before suspension of the provider's program.

SUBPART C. MISCELLANEOUS

Sec. 111. This part does not provide the commission with new authority with respect to municipally-owned electric utilities except to the extent expressly provided in this act.

Sec. 113. Notwithstanding any other provision of this part, electricity or natural gas used in the installation, operation, or testing of any pollution control equipment is exempt from the requirements of, and calculations of compliance required under, this part.

PART 3. STATE GOVERNMENT ENERGY EFFICIENCY AND CONSERVATION

Sec. 131. It is the goal of this state to reduce state government grid-based energy purchases by 25% by 2015, when compared to energy use and energy purchases for the state fiscal year ending September 30, 2002.

Sec. 133. The department of management and budget, after consultation with the energy office in the department of labor and economic growth, shall do all of the following:

- (a) Establish a program for energy analyses of each state building that identifies opportunities for reduced energy use, including the cost and energy savings for each such opportunity, and includes a completion schedule. Under the program, the energy star assessment and rating program shall be extended to all buildings owned or leased by this state. An energy analysis of each such building shall be conducted at least every 5 years. Within 1 year after the effective date of this act, an energy analysis shall be conducted of any such building for which an energy analysis was not conducted within 5 years before the effective date of this act. If building or facility modifications are allowed under the terms of a lease, the state shall undertake any recommendations resulting from an energy audit to those facilities if the recommendations will save money.
- (b) Examine the cost and benefit of using LEED building code standards when constructing or remodeling a state building.
- (c) Before the state leases a building, examine the cost and benefit of leasing a building that meets LEED building codes standards, or remodeling a building to meet such standards. The state shall take into consideration whether a building has historical, architectural, or cultural significance that could be harmed by a lease not being renewed solely based on the building's failure to meet LEED criteria.
- (d) Assist each state department in appointing an energy reduction coordinator to work with the department of management and budget and the state energy office to reduce state energy use.
- (e) Ensure that, during any renovation or construction of a state building, energy efficient products are used whenever possible and that the state purchases energy efficient products whenever possible.
- (f) Implement a program to educate state employees on how to conserve energy. The energy office and the department of management and budget shall update the program every 3 years.
- (g) Use more cost-effective lighting technologies, geothermal heat pumps, and other cost-effective technologies to conserve energy.
- (h) Reduce state government energy use during peak summer energy use seasons with the goal of achieving reductions beginning in 2010.
- (i) Create a web-based system for tracking energy efficiency and energy conservation projects occurring within state government.

PART 4. WIND ENERGY RESOURCE ZONES

Sec. 141. As used in this part:

- (a) "Construction" means any substantial action constituting placement or erection of the foundations or structures supporting a transmission line. Construction does not include preconstruction activity or the addition of circuits to an existing transmission line.
- (b) "Route" means real property on or across which a transmission line is constructed or proposed to be constructed.

Sec. 143. Within 60 days after the effective date of this act, the commission shall create the wind energy resource zone board. The board shall consist of 9 members, as follows:

- (a) 1 member representing the commission.
- (b) 2 members representing the electric utility industry.
- (c) 1 member representing alternative electric suppliers.
- (d) 1 member representing the attorney general.
- (e) 1 member representing the renewable energy industry.
- (f) 1 member representing cities and villages.

- (g) 1 member representing townships.
- (h) 1 member representing independent transmission companies.
- (i) 1 member representing a statewide environmental organization.
- (j) 1 member representing the public at large.

Sec. 145. (1) The wind energy resource zone board shall exercise its powers, duties, and decision-making authority under this part independently of the commission.

(2) The board shall do all of the following:

(a) In consultation with local units of government, study all of the following:

- (i) Wind energy production potential and the viability of wind as a source of commercial energy generation in this state.
- (ii) Availability of land in this state for potential utilization by wind energy conversion systems.

(b) Conduct modeling and other studies related to wind energy, including studying existing wind energy conversion systems, estimates for additional wind energy conversion system development, and average annual recorded wind velocity levels. The board's studies should include examination of wind energy conversion system requests currently in the applicable regional transmission organization's generator interconnection queue.

(3) Within 240 days after the effective date of this act, issue a proposed report detailing its findings under subsection(2). The board's proposed report shall include the following:

- (a) A list of regions in the state with the highest level of wind energy harvest potential.
- (b) A description of the estimated maximum and minimum wind generating capacity in megawatts that can be installed in each identified region of this state.
- (c) An estimate of the annual maximum and minimum energy production potential for each identified region of this state.
- (d) An estimate of the maximum wind generation capacity already in service in each identified region of this state.

(4) The board shall submit a copy of the proposed report under subsection (3) to the legislative body of each local unit of government located in whole or part within any region listed in subsection (3)(a). The legislative body may submit comments to the board on the proposed report within 63 days after the proposed report was submitted to the legislative body. After the deadline for submitting comments on the proposed report, the board shall hold a public hearing on the proposed report. The board may hold a separate public hearing in each region listed under subsection(3)(a). The board shall give written notice of a public hearing under this subsection to the legislative body of each local unit of government located in whole or part within the region or regions that are the subject of the hearing and shall publish the notice in a newspaper of general circulation within the region or regions.

(5) Within 45 days after satisfying the requirements of subsection (4), the board shall issue a final report as described in subsection (3).

(6) After the board issues its report under subsection (5), electric utilities, affiliated transmission companies and independent transmission companies with transmission facilities within or adjacent to regions of this state identified in the board's report shall identify existing or new transmission infrastructure necessary to deliver maximum and minimum wind energy production potential for each of those regions and shall submit this information to the board for its review.

(7) The board is dissolved 90 days after it issues its report under subsection (5).

Sec. 147. (1) Based on the board's findings as reported under section 145, the commission shall, through a final order, designate the area of this state likely to be most productive of wind energy as the primary wind energy resource zone and may designate additional wind energy resource zones.

(2) A wind energy resource zone shall be created on land that is entirely within the boundaries of this state and shall encompass a natural geographical area or region of this state. A wind zone shall exclude land that is zoned residential when the board's proposed report is issued under section 145, unless the land is subsequently zoned for nonresidential use.

(3) In preparing its order, the commission shall evaluate projected costs and benefits in terms of the long-term production capacity and long-term needs for transmission. The order shall ensure that the designation of a wind zone does not represent an unreasonable threat to the public convenience, health, and safety and that any adverse impacts on private property values are minimal. In determining the location of a wind zone, the commission shall consider all of the following factors pursuant to the findings of the board:

- (a) Average annual wind velocity levels in the region.
- (b) Availability of land in the region that may be utilized by wind energy conversion systems.
- (c) Existing wind energy conversion systems in the region.
- (d) Potential for megawatt output of combined wind energy conversion systems in the region.
- (e) Other necessary and appropriate factors as to which findings are required by the commission.

(4) In conjunction with the issuance of its order under subsection (1), the commission shall submit to the legislature a report on the effect that setback requirements and noise limitations under local zoning or other ordinances may have on wind energy development in wind energy resource zones. The report shall include any recommendations the commission may have for legislation addressing these issues. Before preparing the report, the commission shall conduct hearings in various areas of the state to receive public comment on the report.

Sec. 149. (1) To facilitate the transmission of electricity generated by wind energy conversion systems located in wind energy resource zones, the commission may issue an expedited siting certificate for a transmission line to an electric utility, affiliated transmission company, or independent transmission company as provided in this part.

(2) An electric utility, affiliated transmission company, or independent transmission company may apply to the commission for an expedited siting certificate. An applicant may withdraw an application at any time.

(3) Before filing an application for an expedited siting certificate for a proposed transmission line under this part, an electric utility, affiliated transmission company, or independent transmission company must receive any required approvals from the applicable regional transmission organization for the proposed transmission line.

(4) Sixty days before seeking approval from the applicable regional transmission organization for a transmission line as described in subsection (3), an electric utility, affiliated transmission company, or independent transmission company shall notify the commission in writing that it will seek the approval.

(5) The commission shall represent this state's interests in all proceedings before the applicable regional transmission organization for which the commission receives notice under subsection (4).

Sec. 151. An application for an expedited siting certificate shall contain all of the following:

- (a) Evidence that the proposed transmission line received any required approvals from the applicable regional transmission organization.
- (b) The planned date for beginning construction of the proposed transmission line.
- (c) A detailed description of the proposed transmission line, its route, and its expected configuration and use.

- (d) Information addressing potential effects of the proposed transmission line on public health and safety.
- (e) Information indicating that the proposed transmission line will comply with all applicable state and federal environmental standards, laws, and rules.
- (f) A description and evaluation of 1 or more alternate transmission line routes and a statement of why the proposed route was selected.
- (g) Other information reasonably required by commission rules.

Sec. 153. (1) Upon applying for a certificate, an electric utility, affiliated transmission company, or independent transmission company shall give public notice in the manner and form the commission prescribes of an opportunity to comment on and participate in a contested case with respect to the application. Notice shall be published in a newspaper of general circulation in the relevant wind energy resource zone within a reasonable time period after an application is provided to the commission and shall be sent to each affected municipality, electric utility, affiliated transmission company, and independent transmission company and each affected landowner on whose property a portion of the proposed transmission line will be constructed. The notice shall be written in plain, nontechnical, and easily understood terms and shall contain a title that includes the name of the electric utility, affiliated transmission company, or independent transmission company and the words "Notice of Intent to Construct a Transmission Line to Serve a Wind Energy Resource Zone".

(2) The commission shall conduct a proceeding on the application for an expedited siting certificate as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Upon receiving an application for a certificate, each affected municipality and each affected landowner shall be granted full intervener status as of right in commission proceedings concerning the proposed transmission lines.

(3) The commission shall grant an expedited siting certificate if it determines that all of the following requirements are met:

- (a) The proposed transmission line will facilitate transmission of electricity generated by wind energy conversion systems located in a wind energy resource zone.
- (b) The proposed transmission line has received federal approval.
- (c) The proposed transmission line does not represent an unreasonable threat to the public convenience, health, and safety.
- (d) The proposed transmission line will be of appropriate capability to enable the wind potential of the wind energy resource zone to be realized.
- (e) The proposed or alternate route to be authorized by the expedited siting certificate is feasible and reasonable.

(4) If the commission grants an expedited siting certificate for a transmission line under this part, the certificate takes precedence over a conflicting local ordinance, law, rule, regulation, policy, or practice that prohibits or regulates the location or construction of the transmission line. A zoning ordinance or limitation imposed after an electric utility, affiliated transmission company, or independent transmission company files for a certificate shall not limit or impair the transmission line's construction, operation, or maintenance.

(5) In an eminent domain or other related proceeding arising out of or related to a transmission line for which a certificate is issued, a certificate issued under this act is conclusive and binding as to the public convenience and necessity for that transmission line and its compatibility with the public health and safety or any zoning or land use requirements in effect when the application was filed.

(6) The commission has a maximum of 180 days to grant or deny an expedited siting certificate under this section.

Sec. 155. The commission shall make an annual report, summarizing the impact of establishing wind energy resource zones, expedited transmission line siting applications, estimates for future wind generation within wind zones, and recommendations for program enhancements or expansion, to the governor and the legislature on or before the first Monday of March of each year.

Sec. 157. This part does not prohibit an electric utility, affiliated transmission company, or independent transmission company from constructing a transmission line without obtaining an expedited siting certificate.

Sec. 159. (1) A commission order relating to any matter provided for under this part is subject to review as provided in section 26 of 1909 PA 300, MCL 462.26.

(2) In administering this part, the commission has only those powers and duties granted to the commission under this part.

Sec. 161. This part does not confer the power of eminent domain.

PART 5. NET METERING

Sec. 171. As used in this part, "electric utility" means any person or entity whose rates are regulated by the commission for the purpose of selling electricity to retail customers in this state.

Sec. 173. (1) The commission shall establish a statewide net metering program by order issued not later than 180 days after the effective date of this act. No later than 180 days after the effective date of this act, the commission shall promulgate rules regarding any time limits on the submission of net metering applications or inspections of net metering equipment and any other matters the commission considers necessary to implement this part. Any rules adopted regarding time limits for approval of parallel operation shall recognize reliability and safety complications including those arising from equipment saturation, use of multiple technologies, and proximity to synchronous motor loads. The program shall apply to all electric utilities and alternative electric suppliers in this state. Except as otherwise provided under this part, customers of any class are eligible to interconnect eligible electric generators with the customer's local electric utility and operate the generators in parallel with the distribution system. The program shall be designed for a period of not less than 10 years and limit each customer to generation capacity designed to meet only the customer's electric needs. The commission may waive the application, interconnection, and installation requirements of this part for customers participating in the net metering program under the commission's March 29, 2005 order in case no. U-14346.

(2) An electric utility or alternative electric supplier is not required to allow for net metering that is greater than 1% of its in-state peak load for the preceding calendar year. The utility or supplier shall notify the commission if its net metering program reaches the 1% requirement under this subsection. The 1% limit under this subsection shall be allocated as follows:

(a) No more than 0.5% for customers with a system capable of generating 20 kilowatts or less.

(b) No more than 0.25% for customers with a system capable of generating more than 20 kilowatts but not more than 150 kilowatts.

(c) No more than 0.25% for customers with a system capable of generating more than 150 kilowatts.

(3) Selection of customers for participation in the net metering program shall be based on the order in which the applications for participation in the net metering program are received by the electric utility or alternative electric supplier.

(4) An electric utility or alternative electric supplier shall not refuse to provide or discontinue electric service to a customer solely for the reason that the customer participates in the net metering program.

(5) The program created under subsection (1) shall include all of the following:

(a) Statewide uniform interconnection requirements for all eligible electric generators. The interconnection requirements shall be designed to protect electric utility workers and equipment and the general public.

(b) Net metering equipment and its installation must meet all current local and state electric and construction code requirements. Any equipment that is certified by a nationally recognized testing laboratory to IEEE 1547.1 testing standards and in compliance with UL 1741 scope 1.1A, effective May 7, 2007, and installed in compliance with this part is considered to be eligible equipment. Within the time provided by the commission in rules promulgated under subsection (1) and consistent with good utility practice, protection of electric utility workers, protection of electric utility equipment, and protection of the general public, an electric utility may study, confirm, and ensure that an eligible electric generator installation at the customer's site meets the IEEE 1547 anti-

islanding requirements. Utility testing and approval of the interconnection and execution of a parallel operating agreement must be completed prior to the equipment operating in parallel with the distribution system of the utility.

(c) A uniform application form and process to be used by all electric utilities and alternative electric suppliers in this state. Customers who are served by an alternative electric supplier shall submit a copy of the application to the electric utility for the customer's service area.

(d) Net metering customers with a system capable of generating 20 kilowatts or less qualify for true net metering.

(e) Net metering customers with a system capable of generating more than 20 kilowatts qualify for modified net metering.

(6) Each electric utility and alternative electric supplier shall maintain records of all applications and up-to-date records of all active eligible electric generators located within their service area.

Sec. 175. (1) An electric utility or alternative electric supplier may charge a fee not to exceed \$100.00 to process an application for net metering. A customer with a system capable of generating more than 20 kilowatts shall pay all interconnection costs. A customer with a system capable of generating more than 150 kilowatts shall pay standby costs. The commission shall recognize the reasonable cost for each electric utility and alternative electric supplier to operate a net metering program. For an electric utility with 1,000,000 or more retail customers in this state, the commission shall include in that utility's nonfuel base rates all costs of meeting all program requirements except that all energy costs of the program shall be recovered through the utility's power supply cost recovery mechanism under sections 6j and 6k of 1939 PA 3, MCL 460.6j and 460.6k. For an electric utility with less than 1,000,000 base distribution customers in this state, the commission shall allow that utility to recover all energy costs of the program through the power supply cost recovery mechanism under sections 6j and 6k of 1939 PA 3, MCL 460.6j and 460.6k, and shall develop a cost recovery mechanism for that utility to contemporaneously recover all other costs of meeting the program requirements.

(2) The interconnection requirements of the net metering program shall provide that an electric utility or alternative electric supplier shall, subject to any time requirements imposed by the commission and upon reasonable written notice to the net metering customer, perform testing and inspection of an interconnected eligible electric generator as is necessary to determine that the system complies with all applicable electric safety, power quality, and interconnection requirements. The costs of testing and inspection are considered a cost of operating a net metering program and shall be recovered under subsection (1).

(3) The interconnection requirements shall require all eligible electric generators, alternative electric suppliers, and electric utilities to comply with all applicable federal, state, and local laws, rules, or regulations, and any national standards as determined by the commission.

Sec. 177. (1) Electric meters shall be used to determine the amount of the customer's energy use in each billing period, net of any excess energy the customer's generator delivers to the utility distribution system during that same billing period. For a customer with a generation system capable of generating more than 20 kilowatts, the utility shall install and utilize a generation meter and a meter or meters capable of measuring the flow of energy in both directions. A customer with a system capable of generating more than 150 kilowatts shall pay the costs of installing any new meters.

(2) An electric utility serving over 1,000,000 customers in this state may provide its customers participating in the net metering program, at no additional charge, a meter or meters capable of measuring the flow of energy in both directions.

(3) An electric utility serving fewer than 1,000,000 customers in this state shall provide a meter or meters described in subsection (2) to customers participating in the net metering program at cost. Only the incremental cost above that for meters provided by the electric utility to similarly situated nongenerating customers shall be paid by the eligible customer.

(4) If the quantity of electricity generated and delivered to the utility distribution system by an eligible electric generator during a billing period exceeds the quantity of electricity supplied from the electric utility or alternative electric supplier during the billing period, the eligible customer shall be credited by their supplier of electric generation service for the excess kilowatt hours generated during the billing period. The credit shall appear on the bill for the following billing period and shall be limited to the total power supply charges on that bill. Any excess kilowatt hours not used to offset electric generation charges in the next billing period will be carried forward to subsequent billing periods. Notwithstanding any law or regulation, net metering customers shall not receive credits for electric utility transmission or distribution charges. The credit per kilowatt hour for kilowatt hours delivered into the utility's distribution system shall be either of the following:

(a) The monthly average real-time locational marginal price for energy at the commercial pricing node within the electric utility's distribution service territory, or for net metering customers on a time-based rate schedule, the monthly average real-time locational marginal price for energy at the commercial pricing node within the electric utility's distribution service territory during the time-of-use pricing period.

(b) The electric utility's or alternative electric supplier's power supply component of the full retail rate during the billing period or time-of-use pricing period.

Sec. 179. An eligible electric generator shall own any renewable energy credits granted for electricity generated under the net metering program created in this part.

Sec. 181. Upon a complaint or on the commission's own motion, if the commission finds, after notice and hearing, that an electric utility has not complied with a provision or order issued under this part, the commission shall order remedies and penalties as necessary to make whole a customer or other person who has suffered damages as a result of the violation.

PART 6. MISCELLANEOUS COMMISSION PROVISIONS

Sec. 191. (1) Within 60 days after the effective date of this act, the commission shall issue a temporary order implementing this act, including, but not limited to, all of the following:

(a) Formats of renewable energy plans for various categories of electric providers.

(b) Guidelines for requests for proposals under this act.

(2) Within 1 year after the effective date of this act, the commission shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Upon promulgation of the rules, the order under subsection (1) is rescinded.

Sec. 193. (1) Any interested party may intervene in a contested case proceeding under this act as provided in general rules of the commission.

(2) The commission and a provider shall handle confidential business information under this act in a manner consistent with state law and general rules of the commission.

Sec. 195. This act does not limit any authority of the commission otherwise provided by law.

Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable.

Enacting section 2. This act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 1048.

(b) House Bill No. 5524.

This act is ordered to take immediate effect.

Secretary of the Senate

Clerk of the House of Representatives

Approved

Governor

address many of the renewable energy plan and energy optimization plan implementation issues raised by the passage of Act 295.

Subsequent to the passage of Act 295, the Commission Staff (Staff) conducted numerous meetings and engaged in discussions with the electric and gas providers subject to the Act and other interested persons. These meetings and discussions resulted in an agreement in principle on many of the aspects that will make up the formats applicable to the various categories of electric providers and the guidelines for requests for proposals. The Commission appreciates the contributions of its Staff, the electric providers, gas providers, and all interested persons that participated in this joint effort.

Despite the efforts of these parties, not all matters were resolved. Accordingly, the Commission will, in this temporary order, make the necessary determinations on any unresolved issues in order to implement Act 295 as required by MCL 460.1191. In so doing, the Commission does not intend to establish precedent or otherwise preclude any person from taking a different position on any issue pertaining to the future implementation of Act 295. As provided in MCL 460.1191(2), this temporary order will be effective for no more than one year. Thereafter, the Act will be administered in accordance with a set of administrative rules to be adopted in Case No. U-15900.¹

¹On October 7, 2008, the Commission filed a request for rulemaking (RFR) with the State Office of Administrative Hearings and Rules (SOAHR). On the same date, SOAHR approved the RFR, which has been assigned the SOAHR docket number 2008-042 LG. On October 21, 2008, the Commission issued a large number of orders opening implementation dockets for electric and natural gas providers affected by Act 295. In a number of those orders it was incorrectly indicated that the Commission had simultaneously issued an order in Case No. U-15900. The orders should have indicated that the Commission would be issuing such an order commencing the rulemaking proceeding in the near future.

II.

FORMATS OF RENEWABLE ENERGY PLANS

Subpart A of Part 2 of Act 295 concerns renewable energy plans. The term “renewable energy plan” is defined by MCL 460.1011(h) as “a plan approved under section 21 or 23 or found to comply with this act under section 25, with any amendments adopted under this act.” Sections 5, 21(1), 23(1), and 25(1) of Act 295 identify the following categories of electric providers that are subject to renewable energy plans:

- Investor-owned retail rate-regulated electric utilities,
- Retail rate-regulated rural electric cooperatives,
- Alternative electric suppliers,
- Municipally-owned electric utilities,
- Member-regulated rural electric cooperatives.

1. Renewable Energy Plan format applicable to Michigan investor-owned retail rate-regulated electric utilities.

The Michigan investor-owned retail rate-regulated electric utilities subject to Act 295 are Alpena Power Company (Alpena),² Consumers Energy Company (Consumers),³ The Detroit Edison Company (Detroit Edison),⁴ Edison Sault Electric Company (Edison Sault),⁵ Indiana Michigan Power Company (I&M),⁶ Northern States Power Company-Wisconsin (NSPC-Wisc),⁷

²Case No. U-15804.

³Case No. U-15805.

⁴Case No. U-15806.

⁵Case No. U-15807.

⁶Case No. U-15808.

⁷Case No. U-15809.

Upper Peninsula Power Company (UPPCo),⁸ Wisconsin Public Service Corporation (WPS Corp),⁹ and Wisconsin Electric Power Company (Wisconsin Electric).¹⁰ Each of these electric utilities shall file a renewable energy plan with the Commission within 90 days of the date of this order.

A complete description of the format for renewable energy plans applicable to investor-owned retail rate-regulated electric utilities is set forth in Attachment A to this order. The highlights of the requirements for each provider are set forth below. Each filed plan shall address at least all of the following in a manner consistent with Act 295:

- (a) How the provider will meet the applicable renewable energy standards.
- (b) Whether the number of megawatt-hours (MWh) of electricity used in the calculation of the applicable renewable energy credit portfolio will be weather-normalized or based on the average number of MWh of electricity sold by the electric provider annually during the previous three years to retail customers in this state on a three-year running average. Once the plan is approved by the Commission, this option shall not be changed.
- (c) The expected incremental cost of compliance with the renewable energy standards for a 20-year period beginning when the plan is approved by the Commission.
- (d) For an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008, a description of the bidding process to be used by the provider under MCL 460.1033 for renewable energy contracts. The description shall include measures to be employed in the preparation of requests for proposals and the handling and evaluation of proposals received to ensure that any bidder that is an affiliate of the electric utility is not afforded a competitive advantage over any other bidder and that each bidder, including any bidder that is an affiliate of the provider, is treated in a fair and nondiscriminatory manner.
- (e) Establishment of a non-volumetric mechanism for the recovery of the incremental costs of compliance within the electric provider's customer rates.

⁸Case No. U-15810.

⁹Case No. U-15811.

¹⁰Case No. U-15812.

The renewable energy plans filed by retail rate-regulated electric utilities shall be consistent with the format and other applicable provisions of Attachment A.

2. Renewable Energy Plan format applicable to Michigan retail rate-regulated rural electric cooperatives.

The Michigan retail rate-regulated rural electric cooperatives subject to Act 295 are Alger Delta Cooperative Electric Association,¹¹ Bayfield Electric Cooperative,¹² Cherryland Electric Cooperative,¹³ Cloverland Electric Cooperative,¹⁴ Great Lakes Energy Cooperative,¹⁵ Midwest Energy Cooperative,¹⁶ Ontonagon County Rural Electrification Association,¹⁷ Presque Isle Electric and Gas Co-op,¹⁸ Thumb Electric Cooperative,¹⁹ and Tri-County Electric Cooperative.²⁰ Each of these cooperatives shall file a renewable energy plan with the Commission within 90 days from the date of this order.

A complete description of the format for renewable energy plans applicable to Michigan retail rate-regulated rural electric cooperatives is set forth in Attachment A to this order. The highlights

¹¹Case No. U-15813.

¹²Case No. U-15814.

¹³Case No. U-15815.

¹⁴Case No. U-15816.

¹⁵Case No. U-15817.

¹⁶Case No. U-15818.

¹⁷Case No. U-15819.

¹⁸Case No. U-15820.

¹⁹Case No. U-15821.

²⁰Case No. U-15822.

of the requirements for each provider are set forth below. Each filed plan shall address at least all of the following in a manner consistent with Act 295:

- (a) How the provider will meet the applicable renewable energy standards.
- (b) Whether the number of MWh of electricity used in the calculation of the applicable renewable energy credit portfolio will be weather-normalized or based on the average number of MWh of electricity sold by the electric provider annually during the previous three years to retail customers in this state on a three-year running average. Once the plan is approved by the Commission, this option shall not be changed.
- (c) The expected incremental cost of compliance with the renewable energy standards for a 20-year period beginning when the plan is approved by the Commission.
- (d) Establishment of a non-volumetric mechanism for the recovery of the incremental costs of compliance within the electric provider's customer rates.

The renewable energy plans filed by retail rate-regulated rural electric cooperatives shall be consistent with the format and other applicable provisions of Attachment A.

3. Renewable Energy Plan format applicable to alternative electric suppliers.

The alternative electric suppliers (AESs) subject to Act 295 are Accent Energy Midwest LLC,²¹ American PowerNet Management, LP,²² BlueStar Energy Services, Inc.,²³ CMS ERM Michigan LLC,²⁴ CMS Energy Resource Management,²⁵ Commerce Energy, Inc.,²⁶ Constellation

²¹Case No. U-15823.

²²Case No. U-15824.

²³Case No. U-15825.

²⁴Case No. U-15826.

²⁵Case No. U-15827.

²⁶Case No. U-15828.

NewEnergy, Inc.,²⁷ Direct Energy Services, LLC,²⁸ Exelon Energy Company,²⁹ FirstEnergy Solutions Corp.,³⁰ Integrys Energy Services, Inc.,³¹ Liberty Power Delaware LLC,³² Liberty Power Holdings LLC,³³ Metro Energy, LLC,³⁴ MidAmerican Energy Company,³⁵ Nordic Marketing, L.L.C.,³⁶ Nordic Marketing of Michigan, L.L.C.,³⁷ Powerone Corporation,³⁸ Premier Energy Marketing, L.L.C.,³⁹ Quest Energy, L.L.C.,⁴⁰ Sempra Energy Solutions LLC,⁴¹ Spartan Renewable

²⁷Case No. U-15829.

²⁸Case No. U-15830.

²⁹Case No. U-15831.

³⁰Case No. U-15832.

³¹Case No. U-15833.

³²Case No. U-15834.

³³Case No. U-15835.

³⁴Case No. U-15836.

³⁵Case No. U-15837.

³⁶Case No. U-15838.

³⁷Case No. U-15839.

³⁸Case No. U-15840.

³⁹Case No. U-15841.

⁴⁰Case No. U-15842.

⁴¹Case No. U-15843.

Energy, Inc.,⁴² Direct Energy Business, LLC,⁴³ U.P. Power Marketing LLC,⁴⁴ Wolverine Power Marketing Cooperative, Inc.,⁴⁵ and The Royal Bank of Scotland plc.⁴⁶

A complete description of the format for renewable energy plans applicable to alternative electric suppliers is set forth in Attachment B to this order. The highlights of the requirements for each provider are set forth below. Each alternative electric supplier shall file a renewable energy plan with the Commission within 90 days of the date of this order. Each filed plan shall address at least all of the following in a manner consistent with Act 295:

- (a) How the electric provider will meet the renewable energy standards.
- (b) Whether the number of MWh of electricity used in the calculation of the renewable energy portfolio will be weather-normalized or based on the average number of MWh of electricity sold by the electric provider annually during the previous three years to retail customers in this state on a three-year running average. Once the plan is approved by the Commission, this option shall not be changed.

The renewable energy plans filed by alternative electric suppliers shall be consistent with the format and other applicable provisions of Attachment B.

4. Renewable Energy Plan format applicable to municipally-owned electric utilities.

The municipally-owned electric utilities (and their associated implementation dockets) subject to Act 295 are Village of Baraga (Case No. U-15848), City of Bay City (Case No. U-15849), City of Charlevoix (Case No. U-15850), Chelsea Department of Electric & Water (Case No. U-15851), Village of Clinton (Case No. U-15852), Coldwater Board of Public Utilities (Case No. U-15853),

⁴²Case No. U-15844.

⁴³Case No. U-15845.

⁴⁴Case No. U-15846.

⁴⁵Case No. U-15847.

⁴⁶ Case No. U-15902.

Croswell Municipal Light & Power Department (Case No. U-15854), City of Crystal Falls (Case No. U-15855), Daggett Electric Department (Case No. U-15856), Detroit Public Lighting Department (Case No. U-15857), City of Dowagiac (Case No. U-15858), City of Eaton Rapids (Case No. U-15859), City of Escanaba (Case No. U-15860), City of Gladstone (Case No. U-15861), Grand Haven Board of Light and Power (Case No. U-15862), City of Harbor Springs (Case No. U-15863), City of Hart Hydro (Case No. U-15864), Hillsdale Board of Public Utilities (Case No. U-15865), Holland Board of Public Works (Case No. U-15866), Village of L'Anse (Case No. U-15867), Lansing Board of Water & Light (Case No. U-15868), Lowell Light and Power (Case No. U-15869), Marquette Board of Light and Power (Case No. U-15870), Marshall Electric Department (Case No. U-15871), Negaunee Department of Public Works (Case No. U-15872), Newberry Water and Light Board (Case No. U-15873), Niles Utility Department (Case No. U-15874), City of Norway (Case No. U-15875), Village of Paw Paw (Case No. U-15876), City of Petoskey (Case No. U-15877), City of Portland (Case No. U-15878), City of Sebawaing (Case No. U-15879), City of South Haven (Case No. U-15880), City of St. Louis (Case No. U-15881), City of Stephenson (Case No. U-15882), City of Sturgis (Case No. U-15883), Traverse City Light & Power (Case No. U-15884), Union City Electric Department (Case No. U-15885), City of Wakefield (Case No. U-15886), Wyandotte Department of Municipal Service (Case No. U-15887), and Zeeland Board of Public Works (Case No. U-15888).

A complete description of the format for renewable energy plans applicable to municipally-owned electric utilities is set forth in Attachment C to this order. The highlights of the requirements for each provider are set forth below. Each municipally-owned electric utility shall file a renewable energy plan with the Commission within 120 days of the date of this order. Two or

more of these providers that each serve fewer than 15,000 customers may file jointly. Each filed plan shall address at least all of the following in a manner consistent with Act 295:

- (1) How the electric provider will meet the renewable energy standards.
- (2) Whether the number of MWh of electricity used in the calculation of the renewable energy portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous three years to retail customers in this state on a three-year running average. Once the plan is approved by the Commission, this option shall not be changed.
- (3) The expected incremental cost of compliance with the renewable energy standards.
- (4) The manner in which the provider will allocate costs.

The renewable energy plans filed by municipally-owned electric utilities shall be consistent with the format and other applicable provisions of Attachment C.

5. Renewable Energy Plan format applicable to member-regulated electric cooperatives.

At this time, none of Michigan's rate-regulated rural electric cooperatives has elected to become member-regulated under 2008 PA 167, MCL 460.31 *et seq.* Nevertheless, because it may be beneficial for a rate-regulated rural electric cooperative to understand how its decision to switch to member-regulated status could impact its obligations under Act 295, the Commission has determined that it should provide the following information in the temporary order:

- (1) A member-regulated rural electric cooperative shall have 120 days following issuance of the temporary order to file a plan with the Commission.
- (2) The plan shall describe how the electric provider will meet the renewable energy standards.
- (3) The plan shall indicate whether the number of megawatt hours of electricity used in the calculation of the renewable energy portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous three years to retail customers in this state on a three-year running average. Once the plan is approved by the Commission, this option shall not be changed.

- (4) A member-regulated rural electric cooperative that has previously filed a plan under Act 295 as a rate-regulated rural electric cooperative shall have 30 days after the effective date of its election to become member-regulated to file an application seeking to amend its plan. However, its prior election with regard to weather-normalization versus a three year running average shall not be changed.

The renewable energy plans filed by a member-regulated cooperative shall be consistent with the format and other applicable provisions set forth in Attachment B to this order.

III.

GUIDELINES FOR REQUESTS FOR PROPOSALS

Section 21(2)(d) of Act 295 provides that electric providers having one million or more retail customers in this state on January 1, 2008 must describe a bidding process to be used by the provider for the purposes of Section 33, which pertains to how the provider “shall obtain the renewable energy credits that are necessary to meet the renewable energy credit standard in 2015 and thereafter.” Section 191(1)(b) specifies that the Commission shall implement Act 295 by adopting “guidelines” in the temporary order regarding requests for proposals.

The Commission recognizes that the term “guidelines” has a specific definition in the Administrative Procedures Act (APA), 1969 PA 306, MCL 24.201 *et seq.*, and that the APA specifies a method for the adoption of guidelines. However, the context in which the Legislature used the term “guidelines” in Act 295 indicates to the Commission that the Legislature did not intend for the Commission to promulgate guidelines for requests for proposals in accordance with the APA provisions found at MCL 24.224. Rather, the Legislature explicitly indicated that the

Commission was to formulate the initial guidelines for requests for proposals in the temporary order.⁴⁷

Therefore, the Commission adopts the guidelines set forth in Attachment D to this order to comply with the requirement set forth in Section 191(1)(b).

IV.

ENERGY OPTIMIZATION PLANS

Subpart B of Part 2 of Act 295 concerns energy optimization plans. Energy optimization plans must be filed by retail rate-regulated electric utilities, retail rate-regulated rural electric cooperatives, member-regulated rural electric cooperatives, municipally-owned electric utilities, and retail rate-regulated gas utilities.⁴⁸ Alternative electric suppliers are not required to have energy optimization plans.

A provider's energy optimization plan shall be filed, reviewed, and approved or rejected by the Commission according to the same procedures that apply to renewable energy plans. Rate-regulated providers of all types have up to 90 days after issuance of the temporary order to file their energy optimization plans. Member-regulated rural electric cooperatives and municipally-owned electric utilities have 120 days after issuance of the temporary order to file their energy

⁴⁷On October 29, 2008, the Staff posed this issue to the State Office of Administrative Hearings and Rules (SOAHR), which agreed with the analysis that the APA's guideline adoption procedures need not be followed in this instance.

⁴⁸The names and implementation dockets of all of the electric providers have been set forth in the previous section of this order and will not be repeated here. The retail rate-regulated natural gas providers (and their associated implementation dockets) are: Consumers Energy Company (Case No. U-15889), Michigan Consolidated Gas Company (Case No. U-15890), Michigan Gas Utilities Corporation (Case No. U-15891), Northern States Power Company – Wisconsin (Case No. U-15892), SEMCO Energy, Inc. (Case No. U-15893), and Wisconsin Public Service Corporation (Case No. U-15894).

optimization plans. A provider may combine its renewable energy plan with its energy optimization plan.

The overall goal of an energy optimization plan is to reduce the future costs of provider service to customers. Among other things, energy optimization plans must be designed to delay the need for constructing new electric generation facilities, which will protect customers from incurring the costs of such construction. Energy optimization plans shall do all of the following:

- (a) Propose a set of energy optimization programs that include offerings for each customer class, including low income residential. The commission shall allow providers flexibility to tailor the relative amount of effort devoted to each customer class based on the specific characteristics of their service territory.
- (b) Specify necessary funding levels.
- (c) Describe how energy optimization program costs will be recovered as provided in section 89(2).
- (d) Ensure, to the extent feasible, that charges collected from a particular customer rate class are spent on energy optimization programs for that rate class.
- (e) Demonstrate that the proposed energy optimization programs and funding are sufficient to ensure the achievement of applicable energy optimization standards.
- (f) Specify whether the number of megawatt hours of electricity or decatherms or MCFs of natural gas used in the calculation of incremental energy savings under section 77 will be weather-normalized or based on the average number of megawatt hours of electricity or decatherms or MCFs of natural gas sold by the provider annually during the previous 3 years to retail customers in this state. Once the plan is approved by the commission, this option shall not be changed.
- (g) Demonstrate that the provider's energy optimization programs, excluding program offerings to low income residential customers, will collectively be cost-effective.
- (h) Provide for the practical and effective administration of the proposed energy optimization programs. The commission shall allow providers flexibility in designing their energy optimization programs and administrative approach.

A provider's energy optimization programs or any part thereof, may be administered, at the provider's option, by the provider, alone or jointly with other providers, by a state agency, or by an appropriate experienced nonprofit organization selected after a competitive bid process.

- (i) Include a process for obtaining an independent expert evaluation of the actual energy optimization programs to verify the incremental energy savings from each energy optimization program for purposes of section 77. All such evaluations shall be subject to public review and commission oversight.

MCL 460.1071(3).

The energy optimization plans filed by providers shall be consistent with the format and applicable provisions of Attachment E to this order.

V.

GROUPING OF PROVIDERS

Act 295 requires that the Commission adhere to a rigorous schedule for implementation of its provisions. To meet this requirement and facilitate the process, the Commission has determined that it will be necessary to organize the providers whose renewable energy plans and/or energy optimization plans are governed by the Act into the following four groups:

Group A -- All investor-owned electric retail rate-regulated electric utilities and investor-owned retail rate-regulated natural gas utilities.

Group B -- All rate-regulated rural electric cooperatives.

Group C -- All alternative electric suppliers and member- regulated rural electric cooperatives, if any.

Group D -- All municipally-owned electric utilities.

VI.

TECHNICAL CONFERENCES

To facilitate implementation of Act 295, the Staff will be holding two technical conferences. Technical conference No. 1 will be held January 5, 2009 in the Commission's Lansing offices at 6545 Mercantile Way, Lansing, MI 48911. Technical conference No. 1 should be attended by members of Group A and Group C and any persons with an interest in the plans to be filed by providers contained in Group A and Group C. Technical conference No. 1 is scheduled to begin at 9:00 a.m. and will last as long as necessary to address all matters that are pertinent to the implementation of Act 295.

Technical conference No. 2 will be held January 6, 2009 in the Commission's Lansing offices at 6545 Mercantile Way, Lansing, MI 48911. Technical conference No. 2 should be attended by members of Group B and Group D and any persons with an interest in the plans to be filed by providers contained in Group B and Group D. Technical conference No. 2 is scheduled to begin at 9:00 a.m. and will last as long as necessary to address all matters that are pertinent to the implementation of Act 295.

Although participation in one or both of the technical conferences is not mandatory, it is strongly advised. If a provider or interested person is unable to attend the assigned technical conference as scheduled, that provider or person should feel free to attend the other technical conference.

VII.

SUMMARY OF INSTRUCTIONS FOR INITIAL PLAN FILINGS

The filed renewable energy plans for investor-owned retail rate-regulated electric utilities and retail rate-regulated rural electric cooperatives shall include the filing requirements and renewable

energy plan table set forth in Attachment A. The filed plan and implementation for Detroit Edison and Consumers shall be consistent with the guidelines for competitive requirements for proposal for renewable and advanced cleaner energy set forth in Attachment D. Attachment D also contains a table providing clarification regarding the types of contracts to be submitted for review and approval under Act 295, Sections 33(3) and 37. Under Section 37, all providers whose rates are regulated by the Commission must file renewable energy contracts or contracts to purchase RECs with or without the associated energy with the Commission for review and approval. The Commission intends to review and approve these submitted contracts on an expedited basis with a target of issuing the order within 30 calendar days from the date of filing of each contract.⁴⁹ The filed renewable energy plans for AES providers and member-regulated electric cooperatives shall include the filing requirements set forth in Attachment B. The filed renewable energy plans for municipally-owned electric providers shall include the filing requirements and table set forth in Attachment C. The energy optimization plans and implementation shall be consistent with the guidelines and table set forth in Attachment E. Included in Attachment E is a draft application for a Self-Directed Energy Optimization Plan. An updated draft will be available for use by January 5, 2009.

The Commission has reviewed the provisions contained in Attachments A through E and finds them to be reasonable measures to comply with the statutory requirements and provide a basis for administrative review. These attachments are adopted as part of this temporary order.

⁴⁹ Applications seeking approval of contracts shall be filed by the provider in the Commission docket assigned to the provider for the filing of its renewable energy plan and/or energy optimization plan.

VIII.

STAGGERED FILING DEADLINES

The Commission intends to review the filed plans in an expeditious manner and allow reasonable flexibility regarding the plan content for individual providers. Some structure is necessary for the Commission and its Staff to cope with the high volume of case filings that will be experienced during the implementation phase of Act 295. To ease the administrative burden of processing over 90 similar proceedings within a very limited time span, filing deadlines will be assigned that will distribute the workload over a two week period. Attachment F contains a list of all rate regulated electric providers and all rate regulated natural gas providers subject to Act 295 and each of those providers' filing deadlines. Attachment G contains a list of all alternative electric suppliers subject to Act 295 and each of those providers' filing deadlines. For municipally-owned electric utilities, many of whom have until December 14, 2008 to elect to file jointly, the Commission will issue a supplemental order after December 14, 2008 assigning filing deadlines for each of them.

IX.

CONTESTED CASE PROCESSING PROCEDURES

The providers in Groups A and B consist of retail rate-regulated electric providers, retail rate-regulated gas providers, and all retail rate-regulated rural electric cooperatives. These providers are required to file their renewable energy plans and energy optimization plans within 90 days of the issuance of this temporary order. Members of Groups A and B will have their renewable energy plans and/or energy optimization plans reviewed in contested case proceedings to be conducted within a 90-day time frame, which requires the Commission and the administrative law judges (ALJs) from SOAHR to adhere to highly compressed evidentiary hearing schedules. The 90-day timeframe required for processing applications is so tight that litigants cannot reasonably

expect the full panoply of activities ordinarily associated with the conduct of contested case proceedings at the Commission. With these strictures in mind, the Commission adopts the following model schedule to be followed for every renewable energy plan and energy optimization plan proceeding submitted by the Group A and Group B providers:

1. Thirty days before the filing deadline assigned by this order, a provider assigned to either Group A or Group B shall file with the Commission's Executive Secretary a notice of intent to file an application in its assigned implementation docket. The notice of intent shall be accompanied by a proposed notice of hearing that will be reviewed and approved by the Commission's Executive Secretary, and returned to the provider in time for the provider to arrange publication and service of the notice of hearing in accordance with the Executive Secretary's instructions.
2. On the date established for filing the provider's application for approval of its renewable energy plan and/or its energy optimization plan, the provider shall file in its assigned implementation docket an application for approval of its renewable energy plan and/or its energy optimization plan. The filing shall also contain all prepared direct testimony, exhibits, and supporting documentations (such as work papers). The provider shall serve copies of its filing on all parties to its most recently completed or pending general rate case and any persons who have previously expressed a desire to participate in the proceeding.
3. Seven days after the filing of an application for approval of a renewable energy plan and/or an energy optimization plan, petitions for intervention shall be filed.
4. Ten days after the filing, the provider, the intervenors, and other interested persons shall attend the scheduled prehearing conference. Proof of service shall be filed at this time. Affidavits of publication also shall be submitted at the prehearing conference.
5. Twenty-four days after the filing of the application, the Staff and intervenors shall file their prepared direct testimony and exhibits.
6. Thirty-eight days after the filing of the application, parties shall file rebuttal testimony and exhibits, if any.
7. Cross-examination of all parties shall commence on the 45th day after filing of the application and shall be concluded no later than by the 48th day after the filing of the application.

8. Initial briefs from all parties shall be due on the 62nd day after the filing of the application.
9. Reply briefs from all parties shall be due on the 69th day after the filing of the application.
10. There will be no proposal for decision; the Commission will read the record.
11. The Commission will issue an order in the docket on or before the 90th day following the filing of the application.

The ALJs are free to make minor adjustments to the schedules as needed, provided that the Commission is able to issue final orders on or before the 90th day after filing of the application.

X.

COMMENT PROCEEDINGS

Providers assigned to Groups C and D include alternative electric suppliers (which are required to file renewable energy plans but not energy optimization plans), municipally-owned electric utilities, and member-regulated rural electric cooperatives (none at this time). Alternative electric suppliers have 90 days after issuance of the temporary order to file their renewable energy plans. Municipally-owned electric utilities and member-regulated rural electric cooperatives have 120 days after issuance of the temporary order to file their renewable energy and energy optimization plans. These providers are not required to have their renewable energy plans and/or energy optimization plans reviewed in contested case proceedings. Their renewable energy plans and/or energy optimization plans are subject to comment proceedings, which will be processed according to the following schedules.

Alternative electric suppliers (and member-regulated cooperatives, if any):

1. Thirty days before the filing deadline assigned by this order, an alternative electric supplier shall file with the Commission's Executive Secretary a notice of intent to file an application in its assigned implementation docket. The notice of intent shall be accompanied by a proposed notice of opportunity for

comments that will be reviewed and approved by the Commission's Executive Secretary, and returned to the provider in time for the provider to arrange publication and service of the notice of hearing in accordance with the Executive Secretary's instructions.

2. On the date established for filing an alternative electric supplier's application for approval of its renewable energy plan, the alternative electric supplier shall file in its assigned implementation docket an application for approval of its renewable energy plan. On or before the filing deadline, the alternative electric supplier shall provide a description of its filing to all existing customers by mail or by placing a description of its filing on its website and by sending a written notice to all customers notifying them where and how to review the description. The alternative electric supplier shall also provide such information with marketing materials provided to all prospective customers. Finally, on or before the filing deadline, the alternative electric supplier shall inform all existing and prospective customers of the deadline for submitting comments and how they may submit comments to the Commission.
3. The deadline for filing comments on an alternative electric supplier's renewable energy plan shall be 30 days after the filing of the plan.
4. In the event that the Commission intends to suggest changes to an alternative electric supplier's renewable energy plan, the Commission will communicate those changes to the alternative electric supplier within 60 days of the filing of the application.
5. An alternative electric supplier that receives suggested changes from the Commission shall submit its response to the Commission no later than 75 days after the filing of its application.
6. The Commission will issue an order in the docket on or before the 90th day following the filing of the application.

Municipally-owned electric utilities:

1. Thirty days before the filing deadline assigned by this order, a municipally-owned electric utility shall file with the Commission's Executive Secretary a notice of intent to file an application in its assigned implementation docket. Municipally-owned electric utilities having fewer than 15,000 customers may file jointly. The notice of intent shall be accompanied by a proposed notice of opportunity for comments that will be reviewed and approved by the Commission's Executive Secretary, and returned to the provider in time for

the provider to arrange publication and service of the notice of hearing in accordance with the Executive Secretary's instructions.⁵⁰

2. On the date established for the filing of a municipally-owned electric utility's application for approval of its renewable energy plan and/or its energy optimization plan, the municipally-owned electric utility shall file in its assigned implementation docket an application for approval of its renewable energy plan and/or its energy optimization plan. On or before the filing deadline, the municipally-owned electric utility shall provide a description of its filing to all existing customers by mail or by placing a description of its filing on its website. If the municipally-owned electric utility has and/or will be soliciting public comments, it need not inform its customers about how to file comments with the Commission. If the municipally-owned electric utility has not and will not be soliciting public comments on its own, on or before the filing deadline, the municipally-owned electric utility shall inform all existing and prospective customers of the deadline for submitting comments and how they may submit comments to the Commission.
3. The deadline for filing comments with the Commission about a municipally-owned electric utility's renewable energy plan shall be 60 days after the filing of the plan.
4. The Commission will issue an order in the docket on or before the 90th day following the filing of the application.

XI.

ADDITIONAL INFORMATION

Renewable Energy Plan Issues and Clarifications

1. On/Off peak periods.

Section 39(2)(b) provides for a Michigan incentive renewable energy credit (REC) equal to "1/5 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system, other than wind, at peak demand time as determined by the commission." The

⁵⁰In the event that the governing body for the municipally-owned electric utility has already provided an opportunity for public comment or will do so by the filing deadline established by this order, in lieu of submitting a proposed notice of opportunity for comments with its 30-day notice of intent to file, the municipally-owned electric utility shall notify the Executive Secretary that it will be providing copies of the public comments with its plan filing.

Commission, in this temporary order, defines peak demand time as: the period of time between 0600 hours Eastern Standard Time (EST) through 2200 hours EST, Monday through Friday excepting New Year's, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day or if the holiday occurs on a Sunday, the Monday immediately following the holiday. This definition is consistent with the Midwest Independent Transmission System Operator, Inc. (MISO) Third Revised Sheet No. 110.

2. Renewable energy credits (RECs) purchased from the marketplace.

Section 33 applies to providers that had more than 1 million retail customers in this state on January 1, 2008, (Detroit Edison and Consumers). Section 33(1)(a) allows up to, but no more than 50% of RECs needed to meet the standard to be acquired from utility developed and owned renewable energy systems, or systems transferred to the utility after the commencement of commercial operation. Section 33(1)(b) requires at least 50% of credits to be acquired from third-party contracts with unaffiliated renewable energy developers. Such contracts are to be executed after a competitive bidding process pursuant to the Commission-issued guidelines.

Section 33(3) and Section 37 require all contracts entered into for the purposes of satisfying Section 33(1)(a) and (b) to be submitted to the Commission for review and approval. The primary consideration of the Section 33(3) submission is to ensure that the large electric providers (who serve more than 1 million electric customers) are providing non-affiliated developers with contracts providing for at least 50% of renewable energy credits needed to meet the standard; to ensure that engineering, procurement, and construction contracts are competitively bid; and to ensure that contracts providing for transfer of ownership are competitively bid regardless of whether the developer is affiliated with the provider. Contracts approved by the Commission shall be considered consistent with the electric provider's renewable energy plan. In addition,

Section 37, which applies to all regulated providers, requires Commission review of contract cost, price, term, and risks that will lead to a determination of whether the contract provides reasonable and prudent terms and conditions. Contract submission and approval for regulated electric providers may take place outside of the 90-day Commission review period for a biennial plan proceeding. Contract submission shall be made under the docket number for the provider's renewable energy plan.

RECs purchased from an exchange or from an auction may be presumed to have reasonable and prudent terms without the administrative cost and complexity of a specific submittal, and subsequent Commission review. A competitive bidding process (conducted by the provider) is not required to obtain marketplace RECs. The statute does not contemplate that spot purchases of RECs from an exchange or auction are included in the Section 33(3) or Section 37 contract submissions for Commission review. Consistent with this view, the Contract Review and Approval Matrix, attached as a table at the end of Attachment D, specifically excludes marketplace purchases of RECs as being subject to submission, review, and approval.

Section 33(1)(a) limits the extent to which Detroit Edison or Consumers may choose to rely on their own renewable energy systems to meet future renewable energy credit standards. The Legislature has limited Detroit Edison and Consumers to obtaining "no more than 50%" of the RECs necessary to meet the renewable energy credit standard in 2015 and thereafter from either or both "[r]enewable energy systems that were developed by and are owned by the electric provider" or "[r]enewable energy systems that were developed by 1 or more third parties pursuant to a contract with the electric provider under which the ownership of the renewable energy system may be transferred to the electric provider, but only after the renewable energy system begins commercial operation." Moreover, the Legislature clearly provided in Section 33(1)(b) that "at

least 50%” of the required RECs shall be acquired via contract with third-party developers. Spot or marketplace purchases are not acquired through contract and, accordingly, purchases of such RECs can be utilized only to meet the requirements of Section 33(1)(a).

3. Expected life-cycle cost of electricity for new conventional coal-fired facility.

Section 21(4)(b) provides a specific economic criterion for evaluating the reasonableness and prudence of a provider’s renewable energy plan. The lifecycle cost of renewable energy under the plan, less the lifecycle savings of the provider’s energy optimization plan, must not exceed “the expected lifecycle cost of electricity generated by a new conventional coal-fired facility.” The Commission notes that the statute refers to “a” new conventional facility. The Commission interprets this criterion as being a single calculation, as determined by the Commission, and to be used as an economic guidepost to evaluate all providers’ plans despite whether a particular provider has the need or expectation to build a new generation facility. The Commission defines a conventional facility to be an ultra-supercritical pulverized coal plant, with a life of 40 years. The Commission also interprets this calculation, for administrative efficiency, to consist of a busbar rate in \$/MWh. Because the statute mandates a lifecycle calculation, the levelization period shall correspond to the 40 year lifecycle. The Staff shall include an expected lifecycle cost of greenhouse gas emissions under the assumption of a carbon tax or cap and trade requirement. The Commission directs the Staff to work with the providers to develop the required guidepost rate, and to submit the number to the Commission by January 30, 2009. Interested persons may raise additional concerns not specifically addressed by the Commission in the temporary order.

4. Calculation of the incremental cost of compliance via the transfer price to be recovered through the PSCR clause.

A provider whose rates are regulated by the Commission shall include in its renewable energy plan an estimate over the 20-year plan-period of the revenues derived from the sale of energy and capacity generated by renewable energy systems owned by the provider. Energy and capacity produced by these systems may be sold into the wholesale market, or may be sold directly to the provider's customers.

Section 47 requires the Commission to annually set the price per megawatt hour to be transferred to retail customers through the regulated provider's power supply cost recovery (PSCR) clause. Section 49 requires the transfer price to be established in the context of an annual renewable cost reconciliation proceeding. Because the 2009 renewable energy plan proceeding will precede the first annual renewable energy reconciliation, the plan filings will need to estimate the transfer prices over the 20-year plan period. All renewable engineering, procurement, and construction contracts, or contracts for renewable energy systems that have been developed by third parties for transfer of ownership to an electric provider, that have been reviewed and approved by the Commission in a particular year will have the transfer price established as a floor for the lifecycle of the project. Provider-owned projects will have transfer prices set in vintages. Doing so ensures that the economic viability of projects that have been committed to will not be jeopardized by transfer prices that change in future years.

In a renewable energy plan, PSCR transfer revenues are subtracted from the total cost of compliance, as determined by Section 47(2)(a). The transfer price is a primary determinant of the incremental cost of compliance. The PSCR transfer price:

- (a) is unique to each provider;
- (b) reflects the value of long-term capacity and energy;

- (c) is not the current MISO market price of energy, but may use historical MISO prices as a starting point for a 20-year projection of the value of renewable energy and capacity;
- (d) need not be tied to the avoided price of a new conventional coal-fired facility; and
- (e) other factors determined relevant by the Commission.

The transfer price may be separately calculated for differing renewable technologies to reflect availability and the value of capacity; e.g., the capacity value of a landfill gas facility may differ from the capacity value of a wind farm.

The PSCR transfer price may be adjusted by an hourly distribution curve to yield an hourly price per megawatt hour for the 8,760 hours per year.

5. Recovery of start-up costs incurred prior to plan approval.

With respect to start-up costs incurred before Commission approval of a regulated provider's plan, the Commission finds guidance from Section 47(1) which states: "the commission shall consider all actual costs reasonably and prudently incurred in good faith to implement a commission-approved renewable energy plan by an electric provider whose rates are regulated by the commission to be a cost of service to be recovered by the provider." In determining the rate impacts required to recover the incremental cost of compliance, the Commission intends to consider for cost recovery renewable energy plan start-up costs incurred by a provider prior to the date of approval of the provider's plan.

6. Gasification facilities.

Section 3 defines "advanced cleaner energy system" as including a gasification facility. The question is whether electricity produced by gasification facilities is restricted to advanced cleaner

energy credits or whether it may, in the alternative, qualify for renewable energy credits. The Commission answers this question in the affirmative. If a gasification facility is fueled by a renewable energy resource as defined by Section 11(i), then it is a renewable energy system and the electricity it generates qualifies for renewable energy credits.

7. Qualifying for Michigan Incentive Renewable Energy Credits.

A. Michigan Equipment

For renewable energy systems constructed using equipment made in the state of Michigan the following method shall apply for determining the amount of incentive RECs to be granted by Section 39(2)(d):

1. Michigan made equipment shall be calculated by dividing the U.S. dollar cost of all equipment and materials made (defined as manufactured or assembled) in the state of Michigan by the total U.S. dollar cost of all equipment and materials used to construct the renewable energy system.
2. The annual number of incentive RECs granted to the owner of the renewable energy system shall be determined by multiplying the percentage calculated in 1 above by the result of 1/10 multiplied by the number of MWh produced by the renewable energy system in that year.
3. 100% credit of incentive RECs shall be granted to the owner of the renewable energy system if the percentage calculated in 1 above equals or exceeds 50% for renewable energy systems with a commercial operation date (COD) of 10/6/08 or after.

B. Michigan Workforce

For renewable energy systems constructed using a workforce composed of residents of the state of Michigan, the following method shall apply for determining the amount of incentive RECs to be granted by Section 39(2)(e):

1. Michigan labor shall be calculated by dividing the number of labor hours attributed to the construction (defined as in-field labor) of the renewable energy system performed by residents of the state of Michigan by the total labor hours attributed to the construction of the renewable energy system.

2. The annual number of incentive RECs granted to the owner of the renewable energy system shall be determined by multiplying the percentage calculated in 1 above by the result of 1/10 multiplied by the number of MWhs produced by the renewable energy system in that year.
3. 100% credit of incentive RECs shall be granted to the owner of the renewable energy system if the percentage calculated in paragraph 1 above equals or exceeds the following:
 - a. 60% for renewable energy systems with a COD from 10/6/08 through 12/31/2012;
 - b. 65% for renewable energy systems with a COD from 1/1/2013 through 12/31/2014; or
 - c. 70% for renewable energy systems with a COD of 1/1/2015 or after.

C. Advanced Electric Storage Technologies or Hydro Electric Pumped Storage Facilities.

Pursuant to Section 39(2)(c), the Michigan Incentive REC is determined to be the renewable and/or advanced cleaner energy that is generated during the off-peak period and used to charge the Advanced Electric Storage Technology, or fill the Pumped Storage Facility on an hourly basis. The determination of this value for each off-peak hour shall be the lesser of (1) the sum of the net renewable and advanced cleaner energy that is generated during each off-peak hour, or (2) the energy used to charge the Advanced Electric Storage Technology or fill the Pumped Storage Facility during each off-peak hour.

8. Definition of Retail Sales for IOU, Cooperative and Municipal Providers.

Retail sales as used in Section 27(4) and Section 77(1) are defined as total utility electric sales less wholesale sales and electric choice sales. The source of these sales can be determined as total sales to ultimate customers as reported:

- a. For each investor owned utility, line number 10 (summation of line numbers 2, 4, 5, 6, & 7) as reported on page 301 of MPSC Form P-521.

- b. For each electric cooperative,
 - i. For RUS borrowers - line number 11 (TOTAL KWH Sold, less Line number 8 Sales for Resale-RUS Borrowers, and less Line number 9 Sales for Resale-Other) from United States Department of Agriculture-Rural Utilities Service Financial and Statistical Report, Part O. Power Requirements Data Base -- Annual Summary, or
 - ii. For Non-RUS borrowers - line number 11 (TOTAL KWH Sold, less Line number 8 Sales for Resale-RUS Borrowers, and less Line number 9 Sales for Resale-Other) from the National Rural Utilities Cooperative Finance Corporation Financial and Statistical Report, Part R. Power Requirements Data Base--Annual Summary.
- c. For each municipal, form EIA-861.

Energy Optimization Plan Issues and Clarifications

1. Michigan Energy Savings Database.

All of the providers required to file energy optimization (EO) plans have voluntarily decided to collaborate on the development and maintenance of a single statewide database that will be used in developing programs and calculating the savings of numerous energy efficiency measures being installed as a result of the EO programs. The database will be created using established and credible industry savings values and will be updated periodically with actual data from Michigan installations. Over time, this will result in a database that uniquely reflects energy savings from the installation of energy efficiency measures in Michigan. The database will reflect both actual and weather-normalized values.

The Commission commends the providers for taking this logical and cost-effective step. The Commission has an interest in making summary data from the database readily available for public review and edification. The Commission understands that this can be accomplished in a manner that protects the commercial viability of the database contractor and the reasonable prerogatives of the providers. The Commission directs the providers to work with the Staff to establish a link from the Commission website to a site where interested parties can review the posted savings

values within 30 days after the database becomes operational. All updates to the database values shall be reflected on the publicly available website.

2. Coordination with the Michigan Saves Program.

The State of Michigan is fortunate to have received grants totaling \$541,100 for the establishment of a program called Michigan Saves. The Michigan Saves program will provide an option for financing energy efficiency improvements with no up front capital payment and no additional debt attributable to a participating customer. The customer at a location where products financed under *Michigan Saves* are installed will pay a tariffed charge on their utility bill, as long as there are savings, until all measure costs, including financing costs, are paid.

The providers required to conduct energy optimization programs under Act 295 are the same utilities who have been sought out to enable the successful deployment of the *Michigan Saves* concept. Because financing of energy efficiency measures will be critical to the success of the energy optimization plans and the achievement of the goals of Act 295, it is important that providers' energy optimization programs be integrated with the *Michigan Saves* efforts.

In its August 26, 2008 order in Case No. U-15633, the Commission invited regulated electric and natural gas utilities and others to participate in a working group to develop the *Michigan Saves* program and initiate related pilots. To date, nearly all of the providers required to file energy optimization plans under Act 295 have filed notices of intent to participate in the *Michigan Saves* working group.⁵¹ Several other interested parties have also filed notices of intent to participate.

The Commission understands that several Michigan cities are actively interested in the *Michigan Saves* concept and any lack of a formal filing before this Commission by these cities is due to their unfamiliarity with Commission processes. The Commission renews its invitation to

⁵¹See, http://www.michigan.gov/mpsc/0,1607,7-159-16377_47107_51666---,00.html for the *Michigan Saves* project web page.

all parties, especially municipals subject to the provisions of Act 295, to file notices of intent to participate in Case No. U-15633 and participate in subsequent meetings to facilitate rapid development and deployment of the *Michigan Saves* program in conjunction with both the energy optimization and renewable energy plans required under 2008 PA 295.⁵² The U-15633 filing deadline is extended from September 19, 2008 to January 5, 2009.

The Commission understands that meetings are being scheduled in mid-December 2008 to proceed with integrating *Michigan Saves* with the energy optimization and renewable energy plans required under Act 295. The Commission commends the Staff and all parties for their diligence in advancing toward this important goal. The Commission is confident that this assiduousness will result in the initiation of at least one *Michigan Saves* pilot program by February 20, 2009.

3. Treatment of non-residential natural gas customers.

Two issues have arisen regarding whether certain non-residential natural gas customers should be exempt from energy optimization surcharges. The Commission is persuaded that it should weigh in on these questions in the temporary order.

First, some interested persons have pointed out that Section 89(2) limits the ability of the Commission to provide for cost recovery for energy optimization plans undertaken by natural gas providers to “volumetric charges” to be collected from the utility’s natural gas customers. For this reason, they contend, natural gas transportation customers were meant to be excluded from paying for the costs of energy optimization plans and that their volumes should not be considered

⁵² In keeping with Governor Jennifer M. Granholm’s Executive Directives 2007-3, part VI, and 2007-19, part VI, whenever possible, MPSC Workgroup Meetings are available via toll-free teleconference and web conference, so that any interested party with a telephone line and internet connection can easily participate.

in determining whether a provider's energy optimization plan will meet the required energy optimization targets.

Act 295 does not explicitly define the term "natural gas customer." This leaves the Commission to search the remainder of the Act to infer the Legislature's intent. In Section 71(2), the Legislature indicated that the "overall goal of an energy optimization plan shall be to reduce the future costs of provider service to customers." There is no indication in this language that the Legislature intended to distinguish between bundled sales customers, choice customers, and transportation customers. Also, in Section 89(1) and (2), the Legislature did not explicitly distinguish between bundled sales customers, choice customers, and transportation customers. Instead, the Legislature explicitly stated that "costs shall be recovered from *all* natural gas customers...by volumetric charges."

Although transportation customers do not rely on natural gas utilities for their source of supply, many transportation customers do rely on the facilities of natural gas utilities for the delivery of gas to its ultimate destination. In the absence of an explicit legislative intent in Act 295, the Commission finds that natural gas transportation customers served by any natural gas provider whose rates are regulated by the Commission will be subject to cost recovery charges for the energy optimization plan programs in accordance with Act 295 and will have their throughput volumes included in the calculations of the natural gas distribution company's targets, which means that they will be eligible to receive services under approved energy optimization plan programs.

Second, interested persons have suggested that Section 93(1), which states that "[a]n eligible primary or secondary electric customer is exempt from charges the customer would otherwise incur under section 89 or 91 if the customer files with its electric provider and implements a

self-directed energy optimization plan as provided in this section” was intended by the Legislature to be a loophole by which an electric sales customer who elects to do a self-directed electric program can avoid not only the electric surcharge, but also any gas surcharges assessed to gas sales customers.

The Commission is not convinced that the Legislature would have (in a section of the law dealing explicitly with *electric* customers and charges levied by *electric* providers) buried a loophole purported to apply to natural gas customers without having expressly said so. The goal of statutory construction is to ascertain and give effect to the intent of the Legislature. *Livingston Co Bd of Social Services v Dep’t of Social Services*, 208 Mich App 402; 529 NW2d 308 (1995). When the statutory language is clear, the statute should be enforced as written. *Auto-Owners v Stenberg Bros*, 227 Mich App 45; 575 NW2d 79 (1997). Every word of a statute should be read in such a way as to be given meaning, avoiding any construction that would render any part of the statute surplusage or nugatory. *In re MCI Telecommunications Complaint*, 460 Mich 382; 596 NW2d 164 (1999). The Commission concludes that Section 93(1) cannot be read to apply to natural gas customers and that it clearly applies only to electric customers.

4. Cost Recovery for Energy Optimization Plans.

Section 89(1) provides, in part that, “The commission shall allow a provider whose rates are regulated by the commission to recover the actual costs of implementing its approved energy optimization plan.” Section 73(2) requires the Commission to “approve a proposed energy optimization plan unless the commission determines that the energy optimization plan meets the utility system resource cost test and is reasonable and prudent.” The statute also provides a very aggressive timetable for providers to develop, implement, and demonstrate savings from their energy optimization plans. The Commission is aware of the dedicated and good faith efforts of the

providers, in conjunction with the Staff and other interested stakeholders, to meet the statutory deadlines by working expeditiously to initiate necessary plan elements. The Commission finds that it is reasonable that the providers began energy optimization plan and program development as soon as PA 295 was enacted. The Commission authorizes deferred accounting of actual costs incurred by a provider in implementing its energy optimization plan under Act 295, Subpart B.

5. Timing for Energy Optimization Plan Surcharge.

Section 21(7) specifies that, “An electric provider shall not begin recovery of the incremental costs of compliance within its rates until the commission has approved its proposed plan.” This provision relates to renewable energy plans. Similarly, in keeping with the general proviso in Section 73(1) that energy optimization plans shall be subject to the same procedures used for renewable energy plans, the Commission finds that recovery of costs associated with energy optimization plans shall not commence until a provider’s energy optimization plan is approved. The energy optimization plan costs may be recovered as soon as practicable after energy optimization plan approval. Beginning the surcharge as soon as possible will allow the costs to be spread over more months, which will lower the monthly surcharge amount.

6. Notification by Providers Opting to Use the Independent Energy Optimization Program Administrator.

In order to allow adequate time for the bid solicitation process for the Independent Energy Optimization Program Administrator, providers who wish to meet their statutory requirements under 2008 PA 295 by utilizing this option shall notify the Commission of their intent to do so by December 19, 2008. The Commission will require an initial two year contract commitment, with an option to renew.

7. Self-Directed Energy Optimization Plans.

A. Phase-in of Eligible Customers

Section 93 describes a phased-in option for customers to be exempt from otherwise applicable electric charges to support provider energy optimization plans in exchange for implementing their own “self-directed” energy optimization plan.

Initially, only the largest customers are eligible to utilize the self-direct option. In 2009 and 2010, an eligible primary or secondary customer must have had an annual peak demand in the preceding year of at least 2 megawatts at each site to be covered by the plan or 10 megawatts if aggregating multiple sites owned by the same customer within the service territory of the applicable provider.

The second phase of the self-direct roll-out in 2011, 2012 and 2013 expands the option to include mid-sized customers whose annual peak demand in the preceding year was at least 1 megawatt at each site to be covered by the self-directed plan or 5 megawatts if aggregating all sites owned by the same customer within the service territory of the applicable provider. The Commission interprets the insertion of “or customers” in Section 93(2)(b) to allow unrelated customers within the provider’s service territory, such as those in a strip mall or industrial park, to aggregate for the purposes of implementing a self-directed plan. Non-contiguous customers such as a group of schools or churches in a provider’s service territory may also choose to aggregate for purposes of a self-directed plan.

The third and final phase of the self-direct roll-out, in 2014 and thereafter, allows all non-residential primary or secondary electric customers to be aggregated if their collective annual peak demand in the preceding year was at least 1 megawatt for all sites to be covered by the self-directed plan.

B. Schedule for Phase 1-Eligible Customers.

- (1) By December 15, 2008, Consumers and DTE Energy will notify all of their customers who are eligible to implement a Phase 1 self-directed energy optimization plan that this option is available to them as described in this order. In order to assist customers to make an informed decision about whether it is worth it to them to operate a self-directed energy optimization plan, Consumers and DTE Energy will notify customers of their best estimates of the amounts of the surcharges that will be charged to them if they elect to remain part of the provider's energy optimization plan. The Commission expects the other providers subject to the requirements of Act 295 to initiate similar contacts with their eligible Phase 1 customers and to provide the customers with similar surcharge estimates to use as a basis for decision-making.
- (2) By January 15, 2009, eligible Phase 1 customers will notify their electric provider of their intent to implement a self-directed energy optimization program.
- (3) By January 30, 2009, customers will submit a self-directed energy optimization plan to their electric provider. For administrative efficiency, customers shall file their self-direct plans using a standardized template. A draft of the self-direct energy optimization plan template is included in Attachment E to this order. The final version of the self-direct energy optimization plan template to be used by interested Phase 1 customers shall be completed and made available to them by January 5, 2009.
- (4) If the providers identify any insufficiencies in the self-direct energy optimization plans submitted to them, they will notify the customers of the insufficiency and request the information necessary to make the application complete. The notification of insufficiency shall be sent to the customer by February 6, 2009.
- (5) Customers must remedy any self-direct energy optimization plan insufficiencies within one week: by February 13, 2009, if they wish to proceed with plan implementation. An extension to this date may be granted by mutual agreement of the parties as long as doing so does not interfere with the overall schedule of the provider's energy optimization plan implementation.

C. Exemption from energy optimization plan surcharge

Section 93(7) states that, "Once a customer begins to implement a self-directed plan at a site covered by the self-directed plan, that site is exempt from energy optimization program charges under section 89 or 91 and is not eligible to participate in the relevant electric provider's energy

optimization programs.” A self-direct energy optimization plan shall be considered complete, and the customer exempt from the provider’s energy optimization surcharge in the next billing cycle after the start date for the first action item in the customer’s self-direct energy optimization plan. This is true for a customer with a single site or several sites aggregated together. The plan, including the implementation schedule and expected energy savings, must be attested to as true and accurate by a knowledgeable official of the customer. Customers must comply with the statutory self-direct plan reporting requirements to retain the exemption from the surcharge.

8. Definition of Natural Gas Retail Sales for an IOU.

A. For the savings targets identified in Act 295, Section 77(3).

A natural gas provider shall meet the following minimum energy optimization standards using energy efficiency programs under this subpart:

(a) Biennial incremental energy savings in 2008-2009 equivalent to 0.1% of total annual retail natural gas sales in decatherms or equivalent Mcfs in 2007.

For the savings targets, the percentage will be applied to sales volumes including gas customer choice, but not including gas transportation sales volumes. The savings targets are adjusted through weather normalization or a three year averaging method allowed by Section 77(5).

B. For the spending caps identified in Act 295, Section 89(7).

A natural gas provider or an electric provider shall not spend more than the following percentage of total utility retail sales revenues, including electricity or natural gas commodity costs, in any year to comply with the energy optimization performance standard without specific approval from the Commission: (a) In 2009, 0.75% of total retail sales revenues for 2007.

For spending caps, the percentage will be applied to **total** retail gas sales revenue including gas customer choice revenue, but excluding gas transportation distribution revenues.

OTHER GENERIC ISSUES

Information Required on Customer Bills

The following excerpt from Section 45(5) addresses requirements for information to be provided to residential customers regarding both the renewable energy and energy optimization programs:

In its billing statements for a residential customer, each provider shall report to the residential customer all of the following in a format consistent with other information on the customer bill:

- (a) An itemized monthly charge, expressed in dollars and cents, collected from the customer for implementing the renewable energy program requirements of this act. In the first bill issued after the close of the previous year, an electric provider shall notify each residential customer that the customer may be entitled to an income tax credit to offset some of the annual amounts collected for the renewable energy program.
- (b) An itemized monthly charge, expressed in dollars and cents, collected from the customer for implementing the energy optimization program requirements of this act.
- (c) An estimated monthly savings, expressed in dollars and cents, for that customer to reflect the reductions in the monthly energy bill produced by the energy optimization program under this act.
- (d) An estimated monthly savings, expressed in dollars and cents, for that customer to reflect the long-term, life-cycle, levelized costs of building and operating new conventional coal-fired electric generating power plants avoided under this act as determined by the commission.

This language appears to be striving for a balanced presentation to customers of the costs and benefits of the renewable energy and energy optimization plans. Section 45(5)(a) requires disclosure of renewable energy plan costs; (5)(b) requires disclosure of energy optimization plan costs; (5)(c) requires disclosure of energy optimization plan savings; and (5)(d) requires disclosure of renewable energy plan savings (avoided costs).

With respect to Section 45(5)(c), the inclusion of the phrase “for that customer” makes this subsection somewhat unclear. When read in the context of the other section requirements, the Commission interprets this subsection to require reporting to the residential customer the estimated annual savings of the provider’s entire energy optimization plan broken down into monthly increments.

Recovery of Costs from Customers

Section 89(2) states: “Under subsection (1), costs shall be recovered from all natural gas customers and from residential electric customers by volumetric charges, from all other metered customers by per-meter charges, and from unmetered electric customers by an appropriate charge, applied to utility bills as an itemized charge.”

Recovery of costs from commercial and unmetered customers must be accomplished in a fair manner. In particular, the electric commercial customer class has significant diversity of load characteristics within the class. Some commercial customers have load characteristics similar to residential customers, while others have annual consumption levels on par with major industrial customers. If provider energy optimization plans include only a single per-meter charge across the entire commercial customer class, inequities will necessarily be created. The Commission directs providers to include in their energy optimization plan filings proposals for multiple per-meter charges for commercial customers that will reflect the diverse load characteristics within the commercial customer class. At the same time, the Commission finds that rate regulated electric providers should include suggestions in their renewable energy plan filings regarding the appropriate charges for the electric provider’s tariffs, which is a matter for the Commission to determine under Section 45(1).

The Commission notes that Act 295 is silent on the issue of whether or not unmetered electric customers must contribute toward a regulated provider's renewable energy plan. Recovery of the incremental cost of compliance is, pursuant to Section 45(2) to be through an "itemized charge on the customer's bill". Although the retail rate limits specified in Section 45(2) are defined in terms of a dollar amount per "customer meter," it is apparent that the Legislature intended recovery of the incremental cost of compliance to include unmetered customers, because unmetered customer bills can include an itemized charge, and an itemized charge can be developed for unmetered customers that is less than the retail rate impact limits specified by Section 45(2). The Commission finds that recovery of the incremental cost of compliance for renewable energy plans shall include unmetered electric customers.

Low Income Customers

An energy optimization plan must do a number of things in Section 71(3)(a) including: "propose a set of energy optimization programs that include offerings for each customer class, including low income residential. The commission shall allow providers flexibility to tailor the relative amount of effort devoted to each customer class based on the specific characteristics of their service territory." The Commission takes very seriously the potential impact on low income customers of the surcharges associated with the renewable energy and energy optimization plan. While recognizing the intended net benefit to ratepayers of the mandated plans, the Commission wants to ensure that every effort is made to enable low income customers to experience net reductions in their energy bills in the near term. The Commission would like to see creative and focused efforts to target energy optimization program services to distinct subsets of the low income customer population. In some cases, this targeting may entail actual differences in program services. In other cases, it may involve different marketing approaches for the same basic

services. The Commission would also encourage, to the greatest extent possible, the coordination of energy optimization program services with other energy-related assistance programs such as home repair and weatherization efforts.

CONCLUSION

The Commission has selected the cases resulting from this order for participation in its paperless docket program. All documents filed in any of these cases shall be submitted electronically through the Commission's E-Dockets Website at: michigan.gov/mpscedockets. Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted, in Word or PDF format, as an attachment to an email sent to mpscedockets@michigan.gov. If you require assistance prior to e-filing, contact Commission staff at (517) 241-6170 or by e-mail at mpscedockets@michigan.gov.

THEREFORE, IT IS ORDERED that:

A. All providers are ordered to file renewable energy plans and/or energy optimization plans, and supporting testimony and exhibits if applicable, as provided in this temporary order, its attachments, and 2008 PA 295, MCL 460.1001 *et seq.*

B. The provisions of Attachments A through G of this order are adopted for all initial renewable energy plan and/or energy optimization plan filings, as applicable, under the respective attachments and 2008 PA 295, MCL 460.1001 *et seq.*

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of December 4, 2008.

Mary Jo Kunkle, Executive Secretary

**Michigan Public Service Commission
2008 PA 295**

**Filing Requirements and Instructions
for Renewable Energy Plans
for Michigan Investor-Owned Retail Rate-Regulated Electric Utilities
and Retail Rate-Regulated Electric Cooperatives**

PA 295 of 2008 Section 21(2) *Each electric provider shall file a proposed renewable energy plan with the commission within 90 days after the commission issues a temporary order under section 191. The proposed plan shall meet all of the following requirements:*

- (a) Describe how the electric provider will meet the renewable energy standards..*
- (b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the plan is approved the by commission, this option shall not be changed.*
- (c) Include the expected incremental cost of compliance with the renewable energy standards for a 20-year period beginning when the plan is approved by the commission.*
- (d) For an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008, describe the bidding process to be used by the electric provider under section 33. The description shall include measures to be employed in the preparation of requests for proposals and the handling and evaluation of proposals received to ensure that any bidder that is an affiliate of the electric utility is not afforded a competitive advantage over any other bidder and that each bidder, including any bidder that is an affiliate of the electric provider, is treated in a fair and nondiscriminatory manner.*

PA 295 of 2008 Section 21(3) *The proposed plan shall establish a nonvolumetric mechanism for the recovery of the incremental costs of compliance within the electric provider's customer power supply rates.*

The following suggests several elements that address the specific items referenced in the above language in **PA 295 of 2008 Section 21(2)(3)**. These elements are based on current rate case standard filing requirements, PSCR filing requirements as well as RPS filing requirements of other utilities across the country. These suggestions are intended to be used only as initial guidance. They are not necessarily exhaustive.

1. Sales Forecast through 2015

- Specify whether megawatt hours of electricity used in the calculation is weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to full service retail customers in the state (**PA 295 of 2008 Section 21(2)(b)**)

2. 20-Year Forecast of Meters by Customer Class

- This is needed in order to determine retail rate impacts by customer class (**PA 295 of 2008** Section 45(2))

3. Quantity of RECs

- Outline the quantity of RECs the Company forecasts it must obtain each year to meet RPS (**PA 295 of 2008** Section 27(3))

4. Detailed Resource Plan

- Describe the Company's planned renewable and advanced cleaner energy capacity portfolio. Include schedule of forecasted construction and purchases. (**PA 295 of 2008** Section 27(1)(2)).
- Describe the Company's planned renewable and advanced cleaner energy credit portfolio and how it will meet the 50%, 50% allocation requirement (Detroit Edison and Consumers Energy only). Include schedule of forecasted construction and purchases. (**PA 295 of 2008** Section 33(1))
- Forecast RECs obtained via the Michigan incentive RECs as provided for in **PA 295 of 2008** Section 39 (2)(a)(b)(c)(d)(e)
- Forecast expected compliance levels by year to meet the renewable and advanced cleaner energy capacity portfolio targets.
- Forecast expected compliance levels by year to meet the renewable and advanced cleaner energy credit portfolio targets.
- Identify key assumptions used in developing these forecasts and the proposed resource portfolio.
- Identify risks which may drive performance to vary.

5. RFP/Bidding Process and Approach

6. Wholesale Customer Treatment (**PA 295 of 2008** Section 35(1)(a)(b))

7. "Transfer Price" Forecast

- Forecast a price per MWh for each of the 20 years for renewable and advanced cleaner energy sold to full service retail customers, which will be used in calculating net incremental cost. (**PA 295 of 2008** Section 47 2(b)(iv))

8. Revenue Requirement

- Per (**PA 295 of 2008** Section 47(2)) Incremental costs of compliance **shall be calculated to include the following:**

Attachment A

- Capital, operating and maintenance costs for renewable energy systems or advanced cleaner energy systems (including property taxes and insurance for renewable energy systems)
- Financing costs
- Costs that are not otherwise recoverable in base rates including interconnection and substation costs
- Ancillary service costs
- Cost of purchased RECs other than those purchased for non-compliance with **PA 295 of 2008** Section 27
- Cost of contracts per **PA 295 of 2008** Section 33(1)
- Expenses incurred as a result of governmental action including changes in tax or other laws
- Any other costs that are necessary to implement the 20-year plan
- Subtract revenues as identified in **PA 295 of 2008** Section 47 2(b) – ex. transfer price, environmental attributes, interest on regulatory liability etc.
- Recovery to include the authorized rate of return on equity, which will remain fixed at the rate of return and debt to equity ratio that was in effect in base rates when the renewable plan was approved (**PA 295 of 2008** Section 47(1))
- Recommendation of minimum Regulatory Liability and forecast of interest rate used to accrue (**PA 295 of 2008** Section 21 (4))
- The utility's current cost of service study will be used

9. Cost Recovery Mechanism

- 20-year forecast of nonvolumetric surcharge (**PA 295 of 2008** Section 21 (3))
- 20-year forecast of regulatory liability balance

10. Tariff Filings Reflecting the Cost Recovery Mechanism

11. Suggested Templates for Filing Requirements

ATTACHMENT A - RENEWABLE ENERGY PLAN SURCHARGE SUMMARY

	<u>Units</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>
XXX Sales Forecast																						
(XXX = Weather Normalized or 3-yr running average)																						
RPS Requirement	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Required REC's	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
(-) REC's from Existing Renewable Energy Supply(Pre RPS)	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Required RECs	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Renewable Energy Credit Compliance																						
Required RECs	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Obtained	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Compliance Balance	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Compliance %	%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
RECs Eligible for Carryover	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Renewable Energy Capacity Compliance																						
Required Nameplate Capacity	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Obtained Nameplate Capacity	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Capacity Compliance Balance	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Capacity Compliance %	%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Revenue Requirement																						
Build/BOT	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PPA	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
REC Purchases (Sales)	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Obtained																						
Generation Based																						
Build/BOT	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PPA	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Purchase (Sold)	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Incentive (SB 213 Sec 39 (2))	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Forecasted Transfer Price per MWH	\$/MWH	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Amount recovered through PSCR	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Transfer price x volume of energy																						
Incremental Cost of Compliance	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Volumetric Surcharge																						
Meter (or customer) Forecast																						
Residential	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Secondary	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Primary	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Maximum Surcharge (all rate classes at caps)																						
Residential	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Secondary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Primary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Planned Surcharge																						
Residential	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Secondary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Primary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Year End Regulatory Liability Balance																						
Proposed Minimum	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Forecast	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Carrying Charges (Short-term interest)	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Balance	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

**Michigan Public Service Commission
2008 PA 295**

**Filing Requirements and Instructions
for Renewable Energy Plans
for Alternative Electric Suppliers
and Member-Regulated Electric Cooperatives**

PA 295 of 2008 Section 23(2) *Each alternate electric supplier or electric cooperative shall file a proposed renewable energy plan with the commission within 90 days or 120 days, respectively, after the commission issues a temporary order under section 191. The proposed plan shall meet all of the following requirements:*

- (a) Describe how the electric provider will meet the renewable energy standards..*
- (b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the plan is approved the by commission, this option shall not be changed.*

The following suggests elements that address the specific items referenced in the above language **PA 295 of 2008** Section 23(2). These suggestions are intended to be used only as initial guidance. They are not necessarily exhaustive.

1. Detailed Resource Plan See (a) above re Section 23 compliance.
2. Wholesale Customer Treatment (**PA 295 of 2008** Section 35(1)(a)(b)) Only applies if AES purchased PURPA capacity.
3. Suggested Templates for Filing Requirements

**Michigan Public Service Commission
2008 PA 295**

**Filing Requirements and Instructions
for Renewable Energy Plans
for Municipally-Owned Electric Utilities**

PA 295 of 2008 Section 25(2) Each municipally-owned electric utility shall file a proposed renewable energy plan with the commission within 120 days after the commission issues a temporary order under section 191. The proposed plan shall meet all of the following requirements:

- (a) Describe how the electric provider will meet the renewable energy standards.*
- (b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the plan is approved the by commission, this option shall not be changed.*
- (c) Include the expected incremental cost of compliance with the renewable energy standards.*
- (d) Describe the manner in which the provider will allocate costs.*

The following suggests elements that address the specific items referenced in the above language **PA 295 of 2008** Section 25(2). These suggestions are intended to be used only as initial guidance. They are not necessarily exhaustive.

1. Sales Forecast through 2015

- Specify whether megawatt hours of electricity used in the calculation is weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to full service retail customers in the state (**PA 295 of 2008** Section 21(2)(b))

2. 20-Year Forecast of Meters by Customer Class

- This is needed in order to determine max. surcharges by customer class (**PA 295 of 2008** Section 45(2))

3. Quantity of RECs

- Outline the quantity of RECs the Company forecasts it must obtain each year to meet RPS (**PA 295 of 2008** Section 27(3))

4. Detailed Resource Plan See (a) above re Section 25 compliance.

Attachment C

5. Wholesale Customer Treatment (**PA 295 of 2008** Section 35(1)(a)(b)). Only applies if Municipal purchased PURPA capacity.
6. Incremental Cost of Compliance
7. Cost Recovery Mechanism
8. Suggested Templates for Filing Requirements

ATTACHMENT C - RENEWABLE ENERGY PLAN SURCHARGE SUMMARY -

	<u>Units</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>
XXX Sales Forecast																						
(XXX = Weather Normalized or 3-yr running average)																						
RPS Requirement	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Required REC's	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
(-) REC's from Existing Renewable Energy Supply(Pre RPS)	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Required RECs	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Renewable Energy Credit Compliance																						
Required RECs	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Obtained	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Compliance Balance	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Compliance %	%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
RECs Eligible for Carryover	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RPS Renewable Energy Capacity Compliance																						
Required Nameplate Capacity	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Obtained Nameplate Capacity	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Capacity Compliance Balance	MW	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Capacity Compliance %	%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Revenue Requirement																						
Build/BOT	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PPA	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
REC Purchases (Sales)	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	\$Mil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RECs Obtained																						
Generation Based																						
Build/BOT	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PPA	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal	MWH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Purchase (Sold)	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Incentive (SB 213 Sec 39 (2))	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	Millions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Forecasted Transfer Price per MWH	\$/MWH	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Amount recovered through PSCR	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Transfer price x volume of energy																						
Incremental Cost of Compliance	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Volumetric Surcharge																						
Meter (or customer) Forecast																						
Residential	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Secondary	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Primary	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	1000s	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Maximum Surcharge (all rate classes at caps)																						
Residential	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Secondary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Primary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Planned Surcharge																						
Residential	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Secondary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Primary	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Year End Regulatory Liability Balance																						
Proposed Minimum	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Forecast	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Carrying Charges (Short-term interest)	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Balance	\$Mil	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

**Michigan Public Service Commission
2008 PA 295**

**Guidelines for Competitive Request for Proposal
for Renewable and Advanced Cleaner Energy
(Applicable for Detroit Edison and Consumers Energy Only)**

Public Act 295 of 2008 establishes requirements for certain electric utilities and other electric load serving entities (collectively, “LSE” or “Provider”) to provide a percentage of electric sales with energy generated with renewable sources. In accordance with Section 33, up to one-half (1/2) of the incremental renewable or advanced cleaner energy credits used for compliance can be obtained from the transfer of ownership of renewable or advanced cleaner energy systems developed by 1 or more third parties, including affiliated developers, pursuant to a contract with the developer under which ownership of the renewable or advanced cleaner energy system may be transferred to the Provider after commercial operation. The contracts for third party development of renewable and advanced cleaner energy systems under which the ownership may transfer to the Provider after commercial operation are required to be obtained through a competitive bidding process conducted pursuant to guidelines issued by the Michigan Public Service Commission. However, the Provider may consider unsolicited proposals provided to it outside of a competitive bidding process, and if the Provider determines that such an unsolicited proposal provides opportunities that may not be otherwise available or commercially practical, the provider may enter into the contract with the third party developer. The contract is subject to review and approval by the Commission.

In addition, at least one-half (1/2) of the incremental renewable or advanced cleaner energy credits to be acquired by Providers shall be from contracts with unaffiliated developers which do not require transfer of ownership of the renewable or advanced cleaner energy system to the Provider and is required to be obtained through a competitive bidding process conducted pursuant to guidelines issued by the Michigan Public Service Commission. An exception to the need for an RFP would be REC transactions completed through established REC markets or auctions. Also, an electric provider may consider unsolicited proposals presented to it outside of a competitive process by a renewable or advanced cleaner energy developer that is not affiliated with the electric provider. The contract is subject to review and approval by the Commission.

- 1. Each Provider shall identify qualified potential suppliers and maintain a list of qualified potential suppliers with current contact information.** Each Provider may qualify potential suppliers and limit potential supplier’s participation in solicitations based on parameters, such as:
 - a. Credit worthiness;
 - b. Experience in providing products and services;
 - c. Past performance;
 - d. Ability to deliver; and

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- e. Compliance with Federal, State and local laws.
2. **Each Provider shall treat affiliates in a fair and nondiscriminatory manner.** Any proposal submitted by an affiliate of the Provider shall be consistent with the code of conduct under section 10a(4) of 1939 PA 3, MCL 460.10a and the sanctions for violation of the code under section 10c of 1939 PA 3, MCL 460.10c.. In addition, affiliates are not to be afforded any competitive advantage over any other bidders. In qualifying an affiliate, the Provider shall consider the affiliate’s qualifications without any reliance on the credit worthiness, experience or past performance of the Provider.
3. **Each Provider shall, to the extent commercially practical, solicit qualified renewable or advanced cleaner energy resources using a written Request for Proposal (“RFP”) issued to qualified potential suppliers.** The RFP should at a minimum include the following elements:
- a. ***RFP Scope or Description of Need*** A description of products or services solicited. The description should include items such as: type of renewable resource, quantity or amount, contract term, background information, location preferences, and regulatory context.
 - b. ***RFP Schedule*** defining:
 - i. *RFP Release date;*
 - ii. *Pre-bid conference date (if necessary);*
 - iii. *Notice of Intent to Bid date (if necessary);*
 - iv. *Bid Due date;*
 - v. *Short List Notification date (Estimated based on the proposal evaluation);*
 - vi. *Final Selection date (Estimated based on the bid evaluation process).*
 - c. ***Notice of Intent to Bid (“NOIB”) Process.*** The Provider may require qualified potential suppliers to provide a NOIB so as to facilitate:
 - i. *Orderly evaluation of responding proposals; and*
 - ii. *Communications regarding any clarifications to the RFP.*
 - d. ***Pre-bid Conference.*** The Provider may conduct a pre-bid conference with all qualified potential suppliers that filed a NOIB. Any materials presented in such meeting and a record of all questions asked and the response to all questions asked shall be incorporated into the RFP.
 - e. ***Confidentiality of Proprietary Information.*** The Provider shall take reasonable measures to prevent the disclosure of confidential and proprietary information contained in proposals provided by qualified potential suppliers.

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- f. ***Non-refundable Bidding Fee.*** The Provider may require qualified potential suppliers responding to the RFP to provide a reasonable non-refundable bidding fee with each proposal to help defray the cost of evaluating the bids.
 - g. ***Proposal Content Requirements and Submission Procedure.*** The Provider may require that proposals be organized in a manner that facilitates efficient evaluation of proposals.
 - h. ***Status of Generating Facility.*** The Provider may require proposals to address the status of arrangements to provide reliable delivery of the products and services, including (but not limited to): Evidence of land control including plat maps identifying the location of existing easements/leases used for the renewable or advanced cleaner energy system and a list of key easement/lease provisions regarding land usage rights and term; transmission studies; studies or reports regarding wildlife, avian migration, habitats, endangered species, bats, wetlands, contamination, radar, microwave and FAA/MAC height restrictions; wind performance and fuel supply forecast, evidence that the generating facility qualifies as a Renewable Energy System as defined pursuant to PA 295, building permits; contracts for construction; equipment supply agreements; and completion schedule.
 - i. ***Proposal Validity.*** The Provider may require proposals to be valid for a period sufficient to allow for proposal evaluation, Commission consideration of bids selected, contract execution and Commission review and approval of any resulting contract.
- 4. Each Provider shall develop a bid evaluation methodology in consultation with the Commission Staff to evaluate proposals received.** Essential evaluation criteria shall be provided to all suppliers providing notice of intent to bid. In its solicitation, each provider shall describe the evaluation criteria. The bid evaluation process may include an assessment of both price and non-price factors. For bids that do not require transfer of ownership of the applicable renewable energy system to the Provider; such methods shall result in a determination of least price conforming bid(s) from a qualified bidder.

The Provider may weigh non-price items and assign a corresponding bid price credit or bid price debit for differences between bids associated with the progress of developing a renewable energy system to supply the products or services to the Provider, the proposed schedule for completing the renewable energy system to supply the products or services to the Provider, the reliability of equipment, and other matters relating to the likely success of the proposal in providing the products or services to the Provider.

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In the event the least cost conforming bid from a qualified bidder is of a quantity or size that will exceed the Provider's requirements, the Provider may negotiate a reduction in quantity or size so as to conform to the Provider's requirements.

- 5. Each Provider shall maintain a copy of the RFP, proposals submitted in response to the RFP, and a summary of the Provider's evaluation of proposals from qualified potential suppliers in a format to prevent disclosure of any proprietary and confidential information.** For purposes of conducting audits or reviews of the process used by the provider to evaluate bids and award contracts, the Commission Staff or its third-party designee shall have access to proposals submitted by the potential suppliers, internal evaluative documentation, and any other information related to the bidding process.

Table 1: Proposed Renewable Energy Contract Review and Approval Matrix

<u>CONTRACT TYPE</u>	<u>COMPETITIVE BID REQUIRED (1)</u>	<u>PRIOR MPSC APPROVAL REQUIRED</u>	<u>REQUIRED TO FOLLOW MPSC GUIDELINES</u>
<u>SELF BUILD (EPC)</u>	YES	ALL	NO
<u>PURCHASE POWER AGREEMENTS</u>	YES	ALL	YES
<u>ASSET PURCHASES</u> <u>Sec 33(1)(a)(ii)</u>	YES	ALL	NO

PROPOSED EXCLUSIONS INCLUDING BUT NOT LIMITED TO:

Land Acquisition Contracts
 Developmental Studies Contracts, including; environmental, wildlife
 Post-commissioning contracts
 Consulting services contracts
 REC transactions from established REC markets or auctions
 Interconnection Contracts
 (1) Excluding unsolicited bids

**Michigan Public Service Commission
2008 PA 295**

**Filing Requirements and Instructions
for Provider Energy Optimization Plans**

For providers whose rates are regulated by the Commission, a plan shall be filed within 90 days after the issuance by the Commission of a temporary order pursuant to Section 191 of PA 295. For a municipally-owned electric utility or a cooperative electric utility that has elected to become member-regulated, a plan shall be filed within 120 days after such issuance of a temporary order. Within 90 days of receiving an energy optimization plan from the provider, the Commission will approve, approve with changes consented to by the provider, or reject the plan. If the Commission rejects a proposed plan or amendment under this section, the Commission shall explain in writing the reasons for its determination.

The following provisions shall apply to the initial proposed Energy Optimization Plan filed by a provider under 2008 PA 295, Section 71. As stated in Sec. 71 (2): “The overall goal of an energy optimization plan shall be to reduce the future costs of provider service to customers. In particular, an EO plan shall be designed to delay the need for constructing new electric generating facilities and thereby protect consumers from incurring the costs of such construction.”

1) Plan Requirements

The Energy Optimization Plan shall:

- a) Propose a set of energy optimization programs over a multi-year time period of at least 2 years but not greater than 6 years allowing for a

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biennial update or revision that includes offerings for each customer class, including low income residential.

- b) Specify necessary funding levels recognizing the spending caps¹ and their ramp up levels for each year as identified in Public Act 295 (“PA 295”) to achieve the energy savings targets identified in PA 295, Sec. 77. If the provider’s spending requirements needed to meet the mandated energy savings targets exceed the annual sales revenue expenditure limits imposed in PA 295, Sec. 89(7), the provider may seek approval from the commission to exceed the sales revenue expenditure limits to comply with the annual savings targets.
- c) Describe how energy optimization program costs will be recovered from all customers pursuant to Sec. 89(2).
- d) Demonstrate that the proposed energy optimization programs and funding are sufficient to ensure the achievement of applicable energy optimization performance standards.
- e) Demonstrate that proposed energy optimization programs, excluding program offerings to low income residential customers, will collectively be cost effective using the Utility System Resource Cost Test (USRCT). Individual programs need not pass the USRCT. However, in order to provide the Commission with sufficient information to support the proposed distribution of energy optimization funds among the portfolio of proposed programs, the filed plan will include multiple cost-effectiveness tests for individual programs including: USRCT, Total Resource Cost Test, Rate Impact Measure Test and Participant Cost Tests, Data shall be used to ensure , to the extent feasible, that charges collected from a particular

¹ Sec. 71(5): Education Programs; Sec.75: Financial Incentives; Sec. 89(7): Overall Spending Caps. See also related Cost Recovery Caps in Sec. 89(3).

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customer rate class are spent on energy optimization programs for that rate class..

- f) Include a plan for the practical and effective administration of the proposed energy optimization programs.
- g) Include a process for obtaining an independent expert evaluation of the actual energy optimization programs to verify the incremental gross energy savings from each energy optimization program. The vendor(s) selected to provide evaluation services for the provider must be independent from any vendor(s) that are selected by the provider to provide implementation services.
- h) Allow for the coordination of energy optimization programs and services with those of other utilities, agencies and the Commission-administered program..
- i) Include provisions to accommodate self-directed energy optimization plans by eligible electric customers.

2) Definition of Terms

- a) Cost effective means that the overall plan being evaluated meets the Utility System Resource Cost Test (USRCT).
- b) Energy conservation means the reduction of customer energy use through the installation of measures or changes in the energy usage behavior. Energy conservation does not include the use of advanced cleaner energy systems. (Sec.5(c)).
- c) Energy efficiency means a decrease in customer consumption of electricity or natural gas achieved through measures or programs that target customer behavior, equipment, devices, or materials without reducing the quality of energy services. (Sec.5(d)).

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- d) Energy optimization means all of the following: energy efficiency, load management to the extent that the load management reduces overall energy usage, energy conservation, (only to the extent that the decreases in the consumption of electricity produced by energy conservation are objectively measurable and attributable to an energy optimization plan) (Sec. 5(e)). Energy optimization does not include electric provider infrastructure projects that are approved for cost recovery by the commission other than as provided in PA 295 (Sec 5(f)).
- e) For 2009/2010, an eligible primary or secondary customer, with respect to an electric provider means a customer at a single premise with an annual billing demand greater than 2 megawatts. It also includes a customer with an aggregate demand of at least 10 megawatts at all facilities within the provider's service territory. For 2011 -2013, it means a customer with billing demand of 1 megawatt or an aggregate demand of 5 megawatts. After 2015, it means an aggregated demand of 1 megawatt.
- f) The USRCT is the method to use to evaluate the cost effectiveness of the energy efficiency portfolio. This method takes into account the avoided supply costs of energy and demand, the reduction in transmission, distribution, generation, future carbon tax, and capacity valued at marginal costs for the periods when there is a load reduction. The avoided supply costs should be calculated using gross program savings. The costs for the USRCT are the program costs (including marketing and customer acquisition), incurred by the administrator, the incentives paid to the customers, and the increased supply costs for the periods in which load is increased. Administrator program costs include initial and annual costs, such as the cost of provider equipment, operation and maintenance, installation, program administration, incentive to the provider, cost of

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capitalization, and customer dropout and removal of equipment (less salvage value). At the option of the provider, either the cost-based value provided by the commission or the MISO market-based value can be used as a determinant in estimating the avoided cost. The following formulae should be used to perform this test. The formulas for the net present value, the benefit-cost ratio and levelized cost are presented below:

$$NPV_{pa} = B_{pa} - C_{pa}$$

$$BCR_{pa} = B_{pa}/C_{pa}$$

$$LC_{pa} = LC_{pc}/IMP$$

Where:

NPV_{pa} = Net present value of Program Administrator costs

BCR_{pa} = Benefit-cost ratio of Program Administrator costs

LC_{pa} = Levelized cost per unit of Program Administrator cost of the resource

B_{pa} = Benefits of the program

C_{pa} = Costs of the program

LC_{pc} = Total Program Administrator costs used for levelizing

IMP = Total discounted load impacts of the program

3) Plan Elements

- a) The Energy Optimization Plan should include a general description of the methodology and analytical process used to select the measures and programs contained within the plan. This general methodology and analytical process description should include any strategies employed to maximize spillover effects and to minimize free-riders.

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- Additionally, the provider should provide a description of all models, commercial and custom software applications, data providers, and other tools that were used as part of the energy optimization planning process.
- b) Each energy optimization program proposed within the plan should include at a minimum all elements as delineated in the Program Summary in Sample Table 1 and be summarized using the portfolio summary in Sample Table 2. Energy savings and average measure life values for eligible energy optimization measures should be obtained from the proposed Michigan Statewide Energy Measures Library/Database. Utilities may reserve up to twenty percent of the overall budget (by class) to ensure program flexibility. This will allow funds budgeted in a certain program area to be reallocated to other program areas (within the same class) that are deemed cost effective, or where technology or market participation impacts make it necessary to provide additional resources.
 - c) Utilities may designate up to five percent of the energy optimization budget for pilot programs, future energy optimization program development or to assess emerging technologies. As technology changes, impacts to program success can be great. Programs need to incent customers to move above the base efficiency available to them. These budget funds will be deemed to generate a proportional amount up to five percent of the required energy savings for the program year during which the money is spent.
 - d) Up to three percent of the energy optimization budget may be used for the cost of energy optimization education programs. Energy optimization education program costs include all media types (pamphlets, brochures, DVD's, web sites, etc.) that are designed to communicate to and educate customers on the benefits of energy efficiency, conservation and load

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management. These budget funds will be deemed to generate a proportional amount up to three percent of the required energy savings for the program year during which the money is spent. Energy optimization education program costs do not include promotion of any specific energy optimization program or any efforts designed to educate low income residential customers.

- e) Funding for low income residential programs shall be provided from each customer rate class in proportion to that rate class' funding of the provider's total energy optimization programs, prior to those customers electing to self-direct. Low income customers are defined as customers with income up to 200% of the federal poverty level as defined by the U.S. Department of Health and Human Services. This program may include educational components. Existing agencies may be utilized to implement this program.
- f) No more than eight percent of the energy optimization budget should be allocated for program evaluation, measurement and verification activities to determine actual program energy savings.

4) Self-Directed Energy Optimization Plan for Electric Customers

- a) An eligible non-residential primary or secondary electric customer may file with the provider a multi-year (two or more years) self-directed energy optimization plan as provided in this section if it meets the eligibility requirements in PA 295. As used in this section, a customer is defined as the legal owner of a business. For purposes of aggregation, the customer or parent company need not aggregate all company-owned

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facilities. For example, facilities that are designated as franchise operations may be aggregated.

- b) The following plan requirements apply to a self-directed energy optimization plan.
 - i) Initially, a customer electing to implement a self-directed energy optimization plan in 2009 must notify its electric provider of its intent to self-direct by January 15, 2009. The initial notification must include a listing of all sites to be covered in the self-direct plan, and an approximate level of megawatt hour savings. Upon notification, the electric provider promptly will send information to the customer on the electric provider's method and any factors used to weather-normalize its megawatt hours of electricity. This self-direct notification from the customer will provide the electric provider the information necessary for energy optimization planning.
 - ii) The customer must submit its self-direct plan to the electric provider by January 30, 2009. For purposes of administrative efficiency, customers will file their self-direct plans using a standardized template. A prototype of the Self-Direct EO Plan template is included as Sample Form 1 at the end of this document. The initial Self-Direct EO Plan Template to be used by interested Phase 1 customers shall be completed and made available to them by January 5, 2009. If the plan is incomplete, the provider will notify the customer of any deficiency within 5 business days. The customer must remedy the deficiency within 5 business days thereafter.
 - iii) The self-directed energy optimization plan shall be in writing and signed by an individual or corporate officer with knowledge of the plan content and responsibility for its implementation and administration.

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- iv) The self-directed plan shall provide for aggregate energy savings that for each year meet or exceed the statutory energy optimization standards based on the electricity purchases in the previous year(s) for the site or sites covered by the self-directed plan.
 - v) Energy optimization shall be calculated so that none of the following are included in the calculation of the percentage of incremental energy savings:
 - (1) Changes in electricity usage to account for changes in business activity levels not attributable to energy optimization, including such things as site closures, increases or decreases in production, and increases or decreases in hours of operation.
 - (2) Increases in electricity usage because of the installation, operation, or testing of pollution control equipment.
 - vi) A customer filing a self-directed plan with its provider shall specify whether electricity usage used in the calculation of incremental energy savings will be weather-normalized or based on the average number of megawatt hours of electricity consumed by the customer annually during the previous three years.
 - vii) The self-directed plan shall outline how the customer intends to achieve the incremental energy savings specified in the self-directed plan.
 - ix) The customer will be required to remain in the self-directed program for the period specified in the customer's self-directed plan.
- c) A self-directed energy optimization plan shall be incorporated into the relevant electric provider's energy optimization plan. The electric provider shall be credited with the customer's projected energy savings from measures being proposed under a self-directed plan for purposes of

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determining annual incremental energy savings achieved by the provider. The customer's projected energy savings shall be adjusted to match the provider's method of weather-normalization.

- d) All projects submitted by the customer are subject to field verification and evaluation.
- e) A provider will exempt the customer from surcharges, except those it would otherwise incur under the energy optimization program after the customer begins to implement a self-directed plan. See, Section 89(5) of Act 295. When the customer's self-directed plan ends, full surcharges will resume.
- f) The following reporting requirements shall be met for customers that implement a self-direct energy optimization plan.
 - i) The customer shall submit to the relevant provider a brief report every 2 years documenting the energy efficiency measures taken under the self-directed plan during that 2-year period and the associated energy savings.
 - ii) A report under this subsection shall be accompanied by an affidavit from a knowledgeable official of the customer that the information in the report is true and correct to the best of the official's knowledge and belief. If the customer has retained an independent energy optimization service company, the requirements of this subsection shall be met by the energy optimization service company.
 - iii) The report shall specify types of measures installed or process changes, expected service life of the measures installed and sufficient calculations to substantiate the energy savings.
 - iv) The customer shall promptly notify the relevant electric provider if it fails to achieve the expected annual incremental energy savings set

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forth in the self-directed plan for a year that will be the first year covered by the next biennial report.

- v) The customer notification must cite reasons for the inability to achieve the expected savings and the customer must file an amended plan with the provider to satisfy the requirements for incremental savings in subsequent years.
- vi) If a customer fails to submit its biennial report, the provider will promptly send a notice to the customer requesting the delinquent report.
- g) The electric provider review and evaluation of the customer's energy savings calculations are limited to verifying that calculations are provided and cover the applicable measures. The provider's evaluations will include review of the customer's plans and reports and will not include field verifications.
- h) An electric provider shall provide an annual report to the commission identifying customers that have implemented self-directed energy optimization plans and summarize the results achieved under those self-directed plans.
 - i) The provider's annual report to the commission will also list those customers who have failed to meet their portion of the annual performance standard.
 - ii) The commission may request additional information from the provider or customer that describes the reasons for failing to meet the annual performance standard.
 - iii) The commission, at its discretion, may request a contested case hearing involving those customers identified as failing to meet their portion of the annual performance standard.

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- iv) This annual report for self-direct information may be combined with the provider's annual report submitted to the commission relating to actions taken by the provider to comply with the energy optimization standards.
- i) The commission may require additional information from the electric provider or customer if the commission has sufficient reason to believe the information contained in the annual report is inaccurate or incomplete.
- j) The following are additional commission requirements under the self-directed energy optimization plan.
 - i) All customers filing a self-directed energy optimization plan will be responsible for the cost associated with the allocated portion for the provider's low income residential energy optimization program. These costs will be determined in the provider's approved plan filing.
 - ii) For all plan years beginning in 2011 or later, the cost to the customer for the provider's review and evaluation, and contribution to the low income energy optimization program will be proposed for approval by the commission in the electric provider's energy optimization plan filing.
 - iii) If the commission determines after a contested case hearing that the minimum energy optimization goals have not been achieved at the site(s) covered by a self-directed plan, in aggregate, the commission shall order the customer, or customers, to pay an amount as calculated as follows:
 - (1) Determine the proportion of the shortfall in achieving the minimum energy optimization goals.
 - (2) Multiply the figure in (1) by the energy optimization charges from which the customer or customers collectively were exempt under the self-directed energy optimization plan.

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- (3) Multiply the product under subsection (2) by a number not less than 1 or not greater than 2, as determined by the commission based on reasons for failure to meet the minimum energy optimization goals.
- k) If a customer has submitted a self-directed plan to an electric provider, the customer, the customer's energy optimization service company, if applicable, or the electric provider shall provide a copy of the self-directed plan to the commission upon request.

5) Provider Incentive

A provider meeting the energy reduction goals identified in its approved MPSC Energy Optimization Plan is eligible to receive a financial incentive for that performance. The incentive mechanism should be proposed in the provider's energy optimization plan. A provider may receive a financial incentive that shall not exceed the lesser of 25% of the net cost reductions experienced by the provider's customers as a result of implementation of the energy optimization plan or, up to a maximum of 15% of the provider's actual energy optimization plan expenditures.

Proposed Energy Optimization Planning Guidelines

Sample Table 1: Program Summary

Program Element	Note class of customer and type of program being summarized.
Objective	Overall goals and objectives of the subject program
Target Market	Provide the specific customer class and any particular segmentation within that class for which the programs are designed. Note specific information concerning which customers are eligible for participation
Program Duration	Planned month/year start to planned month/year finish
Program Description	Detailed program description
Eligible Measures	Where possible and known, the measures included in the program should be provided along with the gross annual savings (kWh)
Implementation Strategy	Describe the key elements of the program's implementation strategy including incentive strategy (rebate and incentive offerings)
Marketing Strategy	Description of the Marketing strategy including any consumer education components associated with the program (if any), and a description of the marketing and advertising materials to be used
Milestones	Key dates and activity beginning with the date of commission plan approval should be noted; i.e. vendor contract finalization and program launch dates.
EM&V Requirements	A description of how the program will be evaluated, measured, and verified by the third party contractor. This description should include a description of the type of data that will be collected and how the data will be used
Estimated Participation	A projected customer participation level should be provided for the years covered by the proposed plan's surcharge. Additional years are included at the utility's discretion
Estimated Budget	A projected budget should be provided for the years covered by the proposed plan.
Savings Targets	Projected energy savings should be provided for the years covered by the proposed plan's surcharge. Additional years are included at the utility's discretion

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Sample Table 2: Portfolio Summary

Portfolio Category	Program	UCT Results	CCE* Results	Year 1		Year 2		Year 3 & Beyond (optional)	
				MWh Savings	Cost	MWh Savings	Cost	MWh Savings	Cost
Residential	Residential Program 1								
	Residential Program 2								
	Residential Program 3								
Commercial & Industrial (C&I) Primary	C&I Primary Program 1								
	C&I Primary Program 2								
	C&I Primary Program 3								
Commercial & Industrial (C&I) Secondary	C&I Secondary Program 1								
	C&I Secondary Program 2								
	C&I Secondary Program 3								
Portfolio-Level Costs	Program Administration								
	EM&V								
	Emerging Technology								
Education	Education Program 1								
Projected Annual Totals									

*Cost of Conserved Energy

**Sample Form 1: Energy Optimization (EO) Program
Commercial/Industrial Self-directed Application – *DRAFT only*
Plan Year 2009**

Notification deadline requirements: January 15, 2009*

Application deadline (entire form): January 30, 2009

Qualifications*: 2 MW Single site 10 MW sites aggregated (# of sites aggregated ____)

Name of business*: _____

(Use legal name of entity applying)

Mailing Address of Signatory*: _____

Business phone number*: _____ **Fax number*:** _____

Term of the Self-directed application*: _____

Estimated aggregate energy annual savings (MWh): _____

Implementation date if single site: _____

Basis for calculating savings: Weather-normalized 3-year average

Total for Year	EO multiplier (a)	Sites* Name, Service Address, and Account No. for each site (Single site 2MW or >, or 10MW or > for the aggregate of all sites)	Annual Peak Demand for each site (MW)	Annual MWh per site	Adjusted Annual MWh* per Site (adjusted for changes in business activity and weather-normalized or 3-year average) (b)	Minimum Annual Savings to Meet the EO Performance Standard* (MWh) (c) = (a) x (b)
2009	0.3% of 2007					
2010	0.5% of 2009					
2011	0.75% of 2010					
2012						
2013						
2014						

(If there are multiple sites being applied for please complete and submit the attached detailed summary document and carry annual totals forward to this summary table.)

“Site” means a contiguous site, regardless of the number of meters at a site.

Provide a summary of your EO plan:

(The plan should describe how the energy savings will be achieved to meet or exceed statutory EO standards based on electricity purchased in the previous year(s) for this application)

Applicant
Authorized Name (print): _____
Signature: _____
Title: _____
Date: _____

Provider: _____
Authorized name (print): _____
Signature: _____
Title: _____
Date: _____

Attachment E

Signature (EO Service Co.): _____

Attachment F

Case Number	Provider Name	Filing Deadline
U-15804	Alpena Power Company	February 18, 2009
U-15805	Consumers Energy Company (Electric)	February 18, 2009
U-15806	The Detroit Edison Company	March 4, 2009
U-15807	Edison Sault Electric Company	March 4, 2009
U-15808	Indiana Michigan Power Company	February 18, 2009
U-15809	Northern States Power Company-Wisconsin (Electric)	March 4, 2009
U-15810	Upper Peninsula Power Company	March 4, 2009
U-15811	Wisconsin Public Service Corporation (Electric)	March 4, 2009
U-15812	Wisconsin Electric Power Company	March 4, 2009
U-15813	Alger Delta Cooperative Electric Association	February 18, 2009
U-15814	Bayfield Electric Cooperative	February 18, 2009
U-15815	Cherryland Electric Cooperative	February 18, 2009
U-15816	Cloverland Electric Cooperative	February 18, 2009
U-15817	Great Lakes Energy Cooperative	February 18, 2009
U-15818	Midwest Energy Cooperative	February 18, 2009
U-15819	Ontonagon County Rural Electrification Association	February 18, 2009
U-15820	Presque Isle Electric and Gas Co-op	February 18, 2009
U-15821	Thumb Electric Cooperative	February 18, 2009
U-15822	Tri-County Electric Cooperative	February 18, 2009
U-15889	Consumers Energy Company (Gas)	February 18, 2009
U-15890	Michigan Consolidated Gas Company	March 4, 2009
U-15891	Michigan Gas Utilities Corporation	March 4, 2009
U-15892	Northern States Power Company – Wisconsin (Gas)	March 4, 2009
U-15893	SEMCO Energy, Inc.	March 4, 2009
U-15894	Wisconsin Public Service Corporation (Gas)	March 4, 2009

Attachment G

Case Number	Alternative Electric Supplier	Filing Deadline
U-15823	Accent Energy Midwest LLC	February 25, 2009
U-15824	American PowerNet Management, LP	February 25, 2009
U-15825	BlueStar Energy Services, Inc.	February 25, 2009
U-15826	CMS ERM Michigan LLC	February 25, 2009
U-15827	CMS Energy Resource Management	February 25, 2009
U-15828	Commerce Energy, Inc.	February 25, 2009
U-15829	Constellation NewEnergy, Inc.	February 25, 2009
U-15830	Direct Energy Services, LLC	February 25, 2009
U-15831	Exelon Energy Company	February 25, 2009
U-15832	FirstEnergy Solutions Corp.	February 25, 2009
U-15833	Integrays Energy Services, Inc.	February 25, 2009
U-15834	Liberty Power Delaware LLC	February 25, 2009
U-15835	Liberty Power Holdings LLC	February 25, 2009
U-15836	Metro Energy, LLC	February 25, 2009
U-15837	MidAmerican Energy Company	February 25, 2009
U-15838	Nordic Marketing, L.L.C.	February 25, 2009
U-15839	Nordic Marketing of Michigan, L.L.C.	February 25, 2009
U-15840	Powerone Corporation	February 25, 2009
U-15841	Premier Energy Marketing, L.L.C.	February 25, 2009
U-15842	Quest Energy, L.L.C.	February 25, 2009
U-15843	Sempra Energy Solutions LLC	February 25, 2009
U-15844	Spartan Renewable Energy, Inc.	February 25, 2009
U-15845	Direct Energy Business, LLC	February 25, 2009
U-15846	U.P. Power Marketing LLC	February 25, 2009
U-15847	Wolverine Power Marketing Cooperative, Inc.	February 25, 2009
U-15902	Royal Bank of Scotland plc	February 25, 2009

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-15800

County of Ingham)

April M. Arman being duly sworn, deposes and says that on December 4, 2008 A.D. she served a copy of the attached Commission orders via E-Mail, to the persons as shown on the attached service list.

April M. Arman

Subscribed and sworn to before me
this 4th day of December 2008

Sharron A. Allen
Notary Public, Ingham County, MI
My Commission Expires August 16, 2011

ELECTRIC

ontrea@CHARTERMI.NET
Rdennis@KNOWLEDGEINENERGY.COM
arana@MICHIGAN.GOV
vobmgr@UP.NET
mburzych@FOSTERSWIFT.COM
dforgacs@SEL.COM
info@VILLAGEOFCLINTON.ORG
jepalinc@CMSENERGY.COM
Jayne@HOMWORKS.ORG
mkappler@HOMWORKS.ORG
patessner@HOMWORKS.ORG
psimmer@HOMWORKS.ORG
aurora@FREEWAY.NET
frucheyb@DTEENERGY.COM
dwjoos@CMSENERGY.COM
mpscfilings@CMSENERGY.COM
dsawruk@EDISONSAULT.COM
lbaatz@EDISONSAULT.COM
charles.forman@EXELONCORP.COM
stephen.bennett@EXELONCORP.COM
kdcurry@AEP.COM
jim.vansickle@SEMCOENERGY.COM
kay8643990@YAHOO.COM
gericks@WPSR.COM
ronan.patterson@WE-ENERGIES.COM
tharrell@CHARTERINTERNET.COM
patti.williams@BAYFIELDELECTRIC.COM
tonya@CECELEC.COM
dwozniak@CLOVERLAND.COM
sfarnquist@CLOVERLAND.COM
sboeckman@GLENERGY.COM
sharone@TEAMMIDWEST.COM
mkrause@AIRADVANTAGE.NET
rnuss@NISOURCE.COM
rami.fawaz@POWERONECORP.COM
cjmiszuk@FES.COM
CommissionMail@WPSR.COM
llopez@LIBERTYPOWERCORP.COM
jlehmkuhl@NILESMI.ORG
kmarklein@STEPHENSON-MI.COM
fzimmer@CITYOFMARSHALL.COM
mpicklesmier@CITY-CHELSEA.ORG
ktozzini@USGANDE.COM
sharonkr@PIEG.COM
tsobeck@PIEG.COM
igoodman@COMMERCEENERGY.COM
dhaubensak@CORNERENERGY.COM
mpscfilings@DTEENERGY.COM
sergio.carrillo@EXELONCORP.COM

The Ontonagon County Rea. Assoc.
No Name Available
No Name Available
Village of Baraga
Mark Burzych
Direct Energy Business, LLC
Village of Clinton
CMS Energy Resource Mgt Co
Tri-County Electric Co-Op
Tri-County Electric Co-Op
Tri-County Electric Co-Op
Tri-County Electric Co-Op
Aurora Gas Company
Citizens Gas Fuel Company
Consumers Energy Company
Consumers Energy Company
Edison Sault Electric Company
Edison Sault Electric Company
Exelon Energy Company
Exelon Energy Company
Indiana Michigan Power Company
SEMCO Energy Gas Company
Superior Energy Company
Upper Peninsula Power Company
Wisconsin Electric Power Company
Alger Delta Cooperative
Bayfield Electric Cooperative
Cherryland Electric Cooperative
Cloverland Electric Cooperative
Cloverland Electric Cooperative
Great Lakes Energy Cooperative
Midwest Energy Cooperative
Thumb Electric Cooperative
Energy USA- TPC Corp
PowerOne Corp
FirstEnergy Solutions Corp.
Wisconsin Public Service Corp.
Liberty Power Delaware (Holdings)
Niles Utilities Department
Stephson Utilities Department
Marshall Electric Dept.
Chelsea Department of Electric & Water
Michigan Gas and Electric
Presque Isle Electric & Gas Cooperative, INC
Presque Isle Electric & Gas Co-op
Commerce Energy
Cornerstone Energy
DTE Energy
Exelon Energy

vnguyen@MIDAMERICAN.COM
rarchiba@FOSTEROIL.COM
fwpolenz@WPSENERGY.COM
cborr@WPSCI.COM
donald.reck@XCELENERGY.COM
ralph.dennis@CONSTELLATION.COM
cityelectric@ESCANABA.ORG
crystalfallsmgr@HOTMAIL.COM
felicel@MICHIGAN.GOV
bday@SPARKENERGY.COM
nsilvestri@UNIVERSALENERGY.CA
tomwhite@GLADSTONEMI.COM
rstickland@SOUTH-HAVEN.COM
daustin@IGSENERGY.COM
terry.harvill@CONSTELLATION.COM
hkingerski@MXENERGY.COM
lanse2@CHARTER.NET
pnewton@BAYCITYMI.ORG
aallen@GHBLP.ORG
sbn@LBWL.COM
jreynolds@MBLP.ORG
erice@TCLP.ORG
chall@CMSENERGY.COM
dmzwitte@CMSENERGY.COM
foutag@DTEES.COM
bschlansker@PREMIERENERGYONLINE.COM
bhouse@PROLIANCE.COM
rcarrier@SEL.COM
nroehrs@STLOUISMI.COM
shelm@AMERICANPOWERNET.COM
lturbyfill@NORDICENERGY.COM
zach.halkola@TRAXYS.COM
ttarkiewicz@CITYOFMARSHALL.COM
rwoller@BAARDENERGY.COM
tony@AE2.COM
kunklem@MICHIGAN.GOV
ElectricDept@PORTLAND-MICHIGAN.ORG
skm7@ALPENAPOWER.COM
trichards@LOWELL-LIGHT.ORG
blefevere@CI.EATON-RAPIDS.MI.US
gbass@SEMPRASOLUTIONS.COM
AKlaviter@INTEGRYSENERGY.COM
jcasadont@BLUESTARENERGY.COM
tanya.paslawski@DIRECTENERGY.COM
galvin@LAKESHOREENERGY.COM
doug.gugino@REALGY.COM
mrunck@VEENERGY.COM
jfrench@WYAN.ORG
kmaynard@WYAN.ORG
rboston@SEMPRASOLUTIONS.COM
jgriffith@CI.STURGIS.MI.US

MidAmerican Energy
My Choice Energy
Quest Energy, L.L.C.
Spartan Renewable Energy, Inc.
Xcel Energy
Constellation New Energy-Gas
City of Escanaba
City of Crystal Falls
Lisa Felice
Spark Energy Gas, LP
Universal Gas & Electric Corporation
City of Gladstone
City of South Haven
Interstate Gas Supply Inc
Constellation NewEnergy Inc.
MxEnergy Inc.
Village of L'Anse
Bay City Electric Light & Power
Grand Haven Board of Light & Power
Lansing Board of Water and Light
Marquette Board of Light & Power
Traverse City Light & Power
CMS ERM Michigan LLC
CMS ERM Michigan LLC
Metro Energy LLC
Premier Energy Marketing LLC
Proliance Energy LLC
Strategic Energy LLC
City of Saint Louis
American PowerNet Management, L.P.
Nordic Marketing, L.L.C.
U.P. Power Marketing, LLC
City of Marshall
Nordic Marketing of Michigan.com
Accent Energy Midwest
Mary Jo Kunkle - MPSC
City of Portland
Alpena Power
Lowell Light and Power
City of Eaton Rapids
Royal Bank of Scotland
Integrys Energy Service, Inc WPSES
BlueStar Energy Services
Direct Energy Services
Lakeshore Energy Services
Realgy Energy Services
Volunteer Energy Services
Wyandotte Municipal Services
Wyandotte Municipal Services
Sempra Energy Solutions
City of Sturgis

pw@CHARLEVOIXENERGY.COM
sharmaeverest@AOL.COM
pbeckhusen@MUNI.CBPU.COM
akinney@HILLSDALEBPU.COM
rjrose@HILLSDALEBPU.COM
eazimmerman@WPSR.COM
dczarnecki@CHARTERINTERNET.COM
davidw@BPW.ZEELAND.MI.US

Chalevoix Energy Trading
Charlevoix Energy Trading
Coldwater Board of Public Utilities
Hillsdale Board of Public Utilities
Hillsdale Board of Public Utilities
Michigan Gas Utilities
Neguancee Department of Public Works
Zeeland Board of Public Works

*
* Total number of users subscribed to the list: 108
* Total number of local host users on the list: 0
*

Service List for U-15800

Croswell Municipal Light & Power Dept.
100 North Howard Street
Croswell, MI 48422

City of Petoskey
101 East Lake St.
Petoskey MI 49770

City of Sebewaing
108 West Main St.
Sebewaing MI 48759

Village of Paw Paw
110 Harry L. Bush Blvd.
PO Box 179
Paw Paw, MI 49079

City of Harbor Springs
160 Zoll Street
Harbor Springs, MI 49740

Daggett Electric Department
210 School Rd
PO Box 2
Daggett, MI 49821-0002

City of Charlevoix
210 State Street
Charlevoix MI 49720

City of Dowagiac
241 South Front Street
Dowagiac, MI 49047

City of Hart Hydro
3 Water Street
Hart MI 49420

Newberry Water and Light Board
307 E. McMillan Ave
PO Box 228
Newberry MI 49868-0228

City of Wakefield
311 Sunday Lake St.
Wakefield MI 49968

Liberty Power Delaware LLC
800 w Cypress Creek Rd
Ste 410
Fort Lauderdale, FL 33309

Liberty Power Holdings LLC
800 w Cypress Creek Rd Ste 410
Fort Lauderdale, FL 33309

City of Bay City
900 S. Water Street
Bay City, MI 48708

City of Norway
915 Main Street
PO Box 99
Norway MI 49870

Detroit Public Lighting Department
9449 Grinnell Ave
Detroit, MI 48213

City of Stephenson
W628 Samuel Street
PO Box 467
Stephenson MI 49887-04676

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State Energy Optimization Plan Administrator

Attachment A

This is the final self direct application. It replaces the draft self direct application included in U-15800, Attachment E.

2008-2009 Plan Year

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*Total Prior Period Annual Usage (MWh) (the last year's metered usage from your account) (a)	*Total Annual Peak Demand (MW) (the last year's metered usage from your account)	Plan Year	Minimum performance standards (% of prior period usage in col.(a)) (b)	Sites: *Name, Service Address, and Account No. for each site (Single site 2MW or >, or 10MW or > for the aggregate of all sites)	Date when customer will begin to or began to implement the plan for each site	Total Base Annual Usage in MWh per site (adjusted for changes in business activity and weather normalized or 3-year average) (c)	Minimum Annual Savings to meet the EO Performance Standard (MWh) (d) = (c) x (b)	Planned (targeted) Annual Energy Savings in MWh (normalized) no less than (d) for the sum of all sites (e)
2007	30,000	2008-09	0.30%	Ex. Site 1: Customer ABC	8/1/09	20,000	60	100
2007	25,000	2008-09	0.30%	Ex. Site 2: Customer ABC	8/1/09	25,000	75	50
2007		2008-09	0.30%				0	
2007		2008-09	0.30%				0	
Total	0	2008-09	0.30%			0	0	0
Details								

NOTES:

If adding rows to accommodate additional sites, please follow these directions to preserve cell formulas and formatting.

1. Highlight (select) the row containing with Totals

2. From top menu, select **Insert** and then **Rows**

3. The new blank row will need to be formatted consistent with row above. To do so, select row **above** new row, select the **Format Painter***, then select the new row. ***Format Painter** is a paintbrush icon that appears on the Standard Toolbar. To see whether the Standard Toolbar is visible, right click on any space at the top of the excel page where the toolbars appear and select the "Standard Toolbar" if not selected.

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2010 Plan Year

	*Total Prior Period Annual Usage (MWh) (the last year's metered usage from your account) same as rows 5-6 above (a)	*Total Annual Peak Demand (MW) (the last year's metered usage from your account) same as rows 5-6 above.	Plan Year	Minimum performance standards (% of prior period usage in col.(a)) (b)	Sites: *Name, Service Address, and Account No. for each site (Single site 2MW or >, or 10MW or > for the aggregate of all sites)	Date when customer will begin to or began to implement the plan for each site	Total Base Annual Usage in MWh per site (adjusted for changes in business activity and weather normalized or 3-year average) (c)	Minimum Annual Savings to meet the EO Performance Standard (MWh) (d) = (c) x (b)	Planned (targeted) Annual Energy Savings in MWh (normalized) no less than (d) for the sum of all sites (e)
19	2009	0	2010	0.50%	0			0	
20	2009	0	2010	0.50%	0			0	
21	Total	0	2010	0.50%			0	0	0
22	Details								

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NOTES:

If adding rows to accommodate additional sites, please follow these directions to preserve cell formulas and formatting.

1. Highlight (select) the row containing with Totals
2. From top menu, select **Insert** and then **Rows**
3. The new blank row will need to be formatted consistent with row above. To do so, select row **above** new row, select the **Format Painter***, then select the new row. ***Format Painter** is a paintbrush icon that appears on the Standard Toolbar. To see whether the Standard Toolbar is visible, right click on any space at the top of the excel page where the toolbars appear and select the "Standard Toolbar" if not selected.

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2011 Plan Year

	*Total Prior Period Annual Usage (MWh) (the last year's metered usage from your account) same as rows 5-6 above (a)	*Total Annual Peak Demand (MW) (the last year's metered usage from your account) same as rows 5-6 above.	Plan Year	Minimum performance standards (% of prior period usage in col.(a)) (b)	Sites: *Name, Service Address, and Account No. for each site (Single site 2MW or >, or 10MW or > for the aggregate of all sites)	Date when customer will begin to or began to implement the plan for each site	Total Base Annual Usage in MWh per site (adjusted for changes in business activity and weather normalized or 3-year average) (c)	Minimum Annual Savings to meet the EO Performance Standard (MWh) (d) = (c) x (b)	Planned (targeted) Annual Energy Savings in MWh (normalized) no less than (d) for the sum of all sites (e)
40	2010	0	2011	0.75%	0			0	
41	2010	0	2011	0.75%	0			0	
42	Total	0	2011	0.75%			0	0	0
43	Details								
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NOTES:

49 **If adding rows to accommodate additional sites, please follow these directions to preserve cell formulas and formatting.**

50 1. Highlight (select) the row containing with Totals

51 2. From top menu, select **Insert** and then **Rows**

52 3. The new blank row will need to be formatted consistent with row above. To do so, select row **above** new row, select the **Format Painter***, then
 53 select the new row. ***Format Painter** is a paintbrush icon that appears on the Standard Toolbar. To see whether the Standard Toolbar is visible,
 54 right click on any space iat the top of the xcel page where the toolbars appear and select the "Standard Toolbar" if not selected.

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